

GOVERNMENT CODE  
CHAPTER 501. INMATE WELFARE

SUBCHAPTER A. GENERAL WELFARE PROVISIONS

Sec. 501.001. DISCRIMINATION AGAINST INMATES PROHIBITED. The institutional division and the director of the institutional division may not discriminate against an inmate on the basis of the inmate's sex, race, color, creed, or national origin.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.001 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 501.002. ASSAULT BY EMPLOYEE ON INMATE. If an employee of the department commits an assault on an inmate housed in a facility operated by or under contract with the department, the executive director shall file a complaint with the proper official of the county in which the offense occurred. If an employee is charged with an assault described by this section, an inmate or person who was an inmate at the time of the alleged offense may testify in a prosecution of the offense.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1989. Renumbered from V.T.C.A., Government Code Sec. 500.002 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.070, eff. Sept. 1, 1995.

Sec. 501.003. FOOD. The department shall ensure that inmates housed in facilities operated by the department are fed good and wholesome food, prepared under sanitary conditions, and provided in sufficient quantity and reasonable variety. The department shall hold employees charged with preparing food for inmates strictly to account for a failure to carry out this section. The department shall provide for the training of inmates as cooks so that food for inmates may be properly prepared.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.071, eff. Sept. 1, 1995.

Sec. 501.004. CLOTHING. The department shall provide to inmates housed in facilities operated by the department suitable clothing that is of substantial material, uniform make, and reasonable fit and footwear that is substantial and comfortable. The department may not allow an inmate to wear clothing that is not furnished by the department, except as a reward for meritorious conduct. The department may allow inmates to wear underwear not furnished by the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.004 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.072, eff. Sept. 1, 1995.

Sec. 501.005. LITERACY PROGRAMS. (a) The institutional division shall establish a program to teach reading to functionally illiterate inmates housed in facilities operated by the division. The institutional division shall allow an inmate who is capable of serving as a tutor to tutor functionally illiterate inmates and shall actively encourage volunteer organizations to aid in the tutoring of inmates. The institutional division, the inmate to be tutored, and the person who tutors the inmate jointly shall establish reading goals for the inmate to be tutored. A person who acts as a tutor may only function as a teacher and advisor to an inmate and may not exercise supervisory authority or control over the inmate.

(b) The institutional division shall require illiterate inmates housed in facilities operated by the division to receive not less than five or more than eight hours a week of reading instruction.

(c) The institutional division shall identify functionally illiterate inmates housed in facilities operated by the division and shall inform the parole division if it determines that an inmate who is to be released to the supervision of the parole division is in need of continuing education after release from the institutional division.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.005 and

amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.073, eff. Sept. 1, 1995.

Sec. 501.006. EMERGENCY ABSENCE. (a) The institutional division may grant an emergency absence under escort to an inmate so that the inmate may:

- (1) obtain a medical diagnosis or medical treatment;
- (2) obtain treatment and supervision at a Texas Department of Mental Health and Mental Retardation facility; or
- (3) attend a funeral or visit a critically ill relative.

(b) The institutional division shall adopt policies for the administration of the emergency absence under escort program.

(c) An inmate absent under this section is considered to be in the custody of the institutional division, and the inmate must be under physical guard while absent.

(d) The institutional division may not grant a furlough to an inmate convicted of an offense under Section 42.072, Penal Code. Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.006 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 10, Sec. 7, eff. March 19, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 14.36, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.074, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 657, Sec. 7, eff. June 14, 1995; Acts 1997, 75th Leg., ch. 1, Sec. 9, eff. Jan. 28, 1997.

Sec. 501.007. INMATE CLAIMS FOR LOST OR DAMAGED PROPERTY. The department may pay from the miscellaneous funds appropriated to the division claims made by inmates housed in facilities operated by the department for property lost or damaged by the division. The department shall maintain a record of all transactions made under this section and shall send a copy of that record to the state auditor at least annually. The record must show the amount of each claim paid, the identity of each claimant, and the purpose for which each claim was made. The department may not pay under this section more than \$500 on a claim.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.007 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.075, eff. Sept. 1, 1995.

Sec. 501.008. INMATE GRIEVANCE SYSTEM. (a) The department shall develop and maintain a system for the resolution of grievances by inmates housed in facilities operated by the department or under contract with the department that qualifies for certification under 42 U.S.C. Section 1997e and the department shall obtain and maintain certification under that section. A remedy provided by the grievance system is the exclusive administrative remedy available to an inmate for a claim for relief against the department that arises while the inmate is housed in a facility operated by the department or under contract with the department, other than a remedy provided by writ of habeas corpus challenging the validity of an action occurring before the delivery of the inmate to the department or to a facility operated under contract with the department.

(b) The grievance system must provide procedures:

- (1) for an inmate to identify evidence to substantiate the inmate's claim; and
- (2) for an inmate to receive all formal written responses to the inmate's grievance.

(c) A report, investigation, or supporting document prepared by the department in response to an inmate grievance is considered to have been prepared in anticipation of litigation and is confidential, privileged, and not subject to discovery by the inmate in a claim arising out of the same operative facts as are alleged in the grievance.

(d) An inmate may not file a claim in state court regarding operative facts for which the grievance system provides the exclusive administrative remedy until:

- (1) the inmate receives a written decision issued by the highest authority provided for in the grievance system; or
- (2) if the inmate has not received a written decision described by Subdivision (1), the 180th day after the date the grievance is filed.

(e) The limitations period applicable to a claim arising out

of the same operative facts as a claim for which the grievance system provides the exclusive remedy:

(1) is suspended on the filing of the grievance; and  
(2) remains suspended until the earlier of the following dates:

(A) the 180th day after the date the grievance is filed; or

(B) the date the inmate receives the written decision described by Subsection (d)(1).

(f) This section does not affect any immunity from a claim for damages that otherwise exists for the state, the department, or an employee of the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.008 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 378, Sec. 6, eff. June 8, 1995.

Sec. 501.0081. DISPUTE RESOLUTION: TIME-SERVED CREDITS. (a) The department shall develop a system that allows resolution of a complaint by an inmate who alleges that time credited on the inmate's sentence is in error and does not accurately reflect the amount of time-served credit to which the inmate is entitled.

(b) Except as provided by Subsection (c), an inmate may not in an application for a writ of habeas corpus under Article 11.07, Code of Criminal Procedure, raise as a claim a time-served credit error until:

(1) the inmate receives a written decision issued by the highest authority provided for in the resolution system; or

(2) if the inmate has not received a written decision described by Subdivision (1), the 180th day after the date on which under the resolution system the inmate first alleges the time-served credit error.

(c) Subsection (b) does not apply to an inmate who, according to the department's computations, is within 180 days of the inmate's presumptive parole date, date of release on mandatory supervision, or date of discharge. An inmate described by this subsection may raise a claim of time-served credit error by filing a complaint under the system described by Subsection (a) or, if an application for a writ of habeas corpus is not otherwise barred, by raising the claim in that application.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.38(a), eff. Sept. 1, 1999.

Sec. 501.009. VOLUNTEER ORGANIZATIONS. The department shall actively encourage volunteer organizations to provide the following programs for inmates housed in facilities operated by the department:

- (1) literacy and education programs;
- (2) life skills programs;
- (3) job skills programs;
- (4) parent-training programs;
- (5) drug and alcohol rehabilitation programs;
- (6) support group programs;
- (7) arts and crafts programs; and
- (8) other programs determined by the department to aid inmates in the transition between confinement and society and to reduce incidence of recidivism among inmates.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.009 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.076, eff. Sept. 1, 1995.

Sec. 501.010. VISITORS. (a) The institutional division shall allow the governor, members of the legislature, and members of the executive and judicial branches to enter at proper hours any part of a facility operated by the division where inmates are housed or worked, for the purpose of observing the operations of the division. A visitor described by this subsection may talk with inmates away from institutional division employees.

(b) The institutional division shall have a uniform visitation policy that allows eligible inmates housed in facilities operated by the division, other than state jails, to receive visitors. The institutional division shall require each warden in the division to:

- (1) apply the policy in the unit under the warden's

control;

(2) prominently display copies of the policy in locations in the unit that are accessible to inmates or visitors; and

(3) if requested, provide visitors with copies of the policy.

(c) At the end of each biennium, each warden in the institutional division shall report to the director of the division on the manner in which the policy has affected visitation at the warden's unit during the preceding two years.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.010 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.077, eff. Sept. 1, 1995.

Sec. 501.012. FAMILY LIAISON OFFICER. The director of the institutional division shall designate one employee at each facility operated by the institutional division to serve as family liaison officer for that facility. The family liaison officer shall facilitate the maintenance of ties between inmates and their families for the purpose of reducing recidivism. Each family liaison officer shall:

(1) provide inmates' relatives with information about the classification status, location, and health of inmates in the facility;

(2) notify inmates about emergencies involving their families and provide inmates with other necessary information relating to their families; and

(3) assist inmates' relatives and other persons during visits with inmates and aid those persons in resolving problems that may affect permitted contact with inmates.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.012 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.079, eff. Sept. 1, 1995.

Sec. 501.013. MATERIALS USED FOR ARTS AND CRAFTS. (a) The institutional division may purchase materials to be used by inmates housed in facilities operated by the division to produce arts and crafts.

(b) The institutional division may allow an inmate housed in a facility operated by the division who produces arts and crafts in the division to sell those arts and crafts to the general public in a manner determined by the division.

(c) If an inmate housed in a facility operated by the division sells arts and crafts and the materials used in the production of the arts and crafts were provided by the division, the proceeds of the sale go first to the division to pay for the cost of the materials, and the remainder, if any, goes to the inmate. The institutional division may not purchase more than \$30 of materials for any inmate unless the inmate has repaid the division in full for previous purchases of materials.

(d) The manufacturing and logistics division and the institutional division shall work cooperatively in supervising the production and sale of arts and crafts under this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.013 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.080, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1056, Sec. 6, eff. Sept. 1, 2003.

Sec. 501.014. INMATE MONEY. (a) The department shall take possession of all money that an inmate has on the inmate's person or that is received with the inmate when the inmate arrives at a facility to be admitted to the custody of the department and all money the inmate receives at the department during confinement and shall credit the money to an account created for the inmate. The department may spend money from an inmate account on the written order of the inmate in whose name the account is established or as required by law or policy subject to restrictions on the expenditure established by law or policy. The department shall ensure that each facility operated by or under contract with the department shall operate an account system that complies with this section, but the department is not required to operate a separate account system for or at each facility.

(b) If an inmate with money in an account established under Subsection (a) dies while confined in a facility operated by or under contract with the department, the department shall attempt to give notice of the account to a beneficiary or known relative of the deceased inmate. On the presentation of a notarized claim to the department for the money by a person entitled to the notice, the department may pay any amount not exceeding \$2,500 of the deceased inmate's money held by the department to the claimant. A claim for money in excess of \$2,500 must be made under Section 137, Probate Code, or another law, as applicable. The department is not liable for making a payment or failing to make a payment under this subsection.

(c) If money is unclaimed two years after the department gives or attempts to give notice under Subsection (b), or two years after the date of the death of an inmate whose beneficiary or relative is unknown, the executive director, or the executive director's designee, shall make an affidavit stating that the money in the inmate account is unclaimed and send the affidavit and money to the comptroller.

(d) An inmate who escapes or attempts to escape from the custody of the department forfeits to the department all of the money held by the department in the inmate's account at the time of the escape or attempted escape. Money forfeited to the comptroller under Subsection (c) escheats to the state.

(e) On notification by a court, the department shall withdraw from an inmate's account any amount the inmate is ordered to pay by order of the court under this subsection. The department shall make a payment under this subsection as ordered by the court to either the court or the party specified in the court order. The department is not liable for withdrawing or failing to withdraw money or making payments or failing to make payments under this subsection. The department shall make withdrawals and payments from an inmate's account under this subsection according to the following schedule of priorities:

(1) as payment in full for all orders for child support;

(2) as payment in full for all orders for restitution;

(3) as payment in full for all orders for reimbursement of the Texas Department of Human Services for financial assistance provided for the child's health needs under Chapter 31, Human Resources Code, to a child of the inmate;

(4) as payment in full for all orders for court fees and costs;

(5) as payment in full for all orders for fines; and

(6) as payment in full for any other court order, judgment, or writ.

(f) The department may place a hold on money in or withdraw money from an inmate account:

(1) to restore amounts withdrawn by the inmate against uncollected money;

(2) to correct accounting errors;

(3) to make restitution for wrongful withdrawals made by an inmate from the account of another inmate;

(4) to cover deposits until cleared;

(5) as directed by court order in accordance with Subsection (e);

(6) as part of an investigation by the department of inmate conduct involving the use of the account or an investigation in which activity or money in the inmate's account is evidence;

(7) to transfer money deposited in violation of law or department policy; or

(8) to recover money the inmate owes the department for indigent supplies, medical copayments, destruction of state property, or other indebtedness.

(g) The department shall withdraw money from an inmate's account under Subsection (e) before the department applies a deposit to that account toward any unpaid balance owed to the department by the inmate under Section 501.063.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.014 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 804, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.081, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 257, Sec. 2, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 807, Sec. 1, eff. Sept. 1, 1997;

Acts 1997, 75th Leg., ch. 1409, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.34, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.10, 19.02(8), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 326, Sec. 1, 2, eff. Sept. 1, 1999.

Sec. 501.015. PROVIDING DISCHARGED OR RELEASED INMATE WITH CLOTHING AND MONEY; BURIAL EXPENSES. (a) When an inmate is discharged or is released on parole, mandatory supervision, or conditional pardon, the institutional division shall provide the inmate with:

- (1) suitable civilian clothing;
- (2) money held in the inmate's trust account by the director; and
- (3) cash, in an amount and in the manner described by Subsection (b).

(b) When an inmate is released on parole, mandatory supervision, or conditional pardon, the inmate is entitled to receive \$100 from the department and transportation at the expense of the department to the location at which the inmate is required to report to a parole officer by the pardons and paroles division. The inmate shall receive \$50 on his release from the institution and \$50 on initially reporting to a parole officer at the location at which the inmate is required to report to a parole officer. If an inmate is released and is not required by the pardons and paroles division to report to a parole officer or is authorized by the pardons and paroles division to report to a location outside this state, the department shall provide the inmate with \$100 and, at the expense of the department, transportation to:

- (1) the location of the inmate's residence, if the residence is in this state; or

- (2) a transit point determined appropriate by the department, if the inmate's residence is outside this state or the inmate is required by the pardons and paroles division to report to a location outside this state.

(c) The department may spend not more than \$200 to defray the costs of transportation or other expenses related to the burial of an inmate who dies while confined in a facility operated by the institutional division.

(d) The director of the institutional division shall provide the comptroller with funds sufficient to maintain not less than \$100,000 in a bank or banks in Huntsville, Texas, for the purpose of making prompt payments to inmates required by Subsection (b). Funds maintained in a bank under this subsection must be secured by bonds or other securities approved by the attorney general.

(e) A bank that maintains funds described by Subsection (b) shall make a weekly report to the comptroller on the condition of the funds.

(f) Subsection (a)(3) does not apply to an inmate who on discharge or release on parole, mandatory supervision, or conditional pardon is transferred from the custody of the institutional division to a state jail felony facility or who is subject to a felony detainer and is released to the custody of another jurisdiction.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.015 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 238, Sec. 7.01, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.082, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.35, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 745, Sec. 1, eff. Aug. 30, 1999.

Sec. 501.016. DISCHARGE OR RELEASE PAPERS; RELEASE DATE. (a) The department shall prepare and provide an inmate with the inmate's discharge or release papers when the inmate is entitled to be discharged or to be released on parole, mandatory supervision, or conditional pardon. The papers must be dated and signed by the officer preparing the papers and bear the seal of the department. The papers must contain:

- (1) the inmate's name;
- (2) a statement of the offense or offenses for which the inmate was sentenced;
- (3) the date on which the defendant was sentenced and the length of the sentence;
- (4) the name of the county in which the inmate was sentenced;

(5) the amount of calendar time the inmate actually served;

(6) a statement of any trade learned by the inmate and the inmate's proficiency at that trade; and

(7) the physical description of the inmate, as far as practicable.

(b) If the release date of an inmate occurs on a Saturday, Sunday, or legal holiday, the department may release the inmate on the preceding workday.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.016 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.083, eff. Sept. 1, 1995.

Sec. 501.017. COST OF CONFINEMENT AS CLAIM. (a) The department may establish a claim and lien against the estate of an inmate who dies while confined in a facility operated by or under contract with the department for the cost to the department of the inmate's confinement.

(b) The department may not enforce a claim or lien established under this section if the inmate has a surviving spouse or a surviving dependent or disabled child.

(c) The department shall adopt policies regarding recovery of the cost of confinement through enforcement of claims or liens established under this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.017 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.084, eff. Sept. 1, 1995.

Sec. 501.019. COST OF CONFINEMENT AS CLAIM; SETOFF. (a) The state may deduct from any monetary obligation owed to an incarcerated person:

(1) the cost of incarceration, if a cost of incarceration for the person can be computed; and

(2) any amount assessed against the person under Section 14.006, Civil Practice and Remedies Code, that remains unpaid at the time the monetary obligation is to be paid.

(b) In a case in which a person may be indemnified under Chapter 104, Civil Practice and Remedies Code, and that arises from a claim made by a person for whom a cost of incarceration can be computed, the court shall reduce the amount recoverable by the claimant by the amount of the cost of incarceration.

(c) The annual cost of incarceration of a person shall be computed using the average cost per day for imprisonment calculated by the Criminal Justice Policy Council.

(d) In making a deduction under Subsection (a) or in reducing an award under Subsection (b), the department or the court shall credit or debit a prorated portion of the cost of incarceration for a person incarcerated for 365 days or less in a year. The number of days of incarceration in a year includes time served before conviction.

(e) This section applies to a monetary obligation arising from a judgment against the state, an agency of the state, or an officer or employee of the state or an agency of the state, only if:

(1) the judgment awards damages for property damage or bodily injury resulting from a negligent act or omission, including an act or omission described by Section 101.021(1), Civil Practice and Remedies Code; and

(2) there is not a finding by the court of a violation of the constitution of this state or the United States.

Added by Acts 1995, 74th Leg., ch. 378, Sec. 7, eff. June 8, 1995.

Sec. 501.021. USE OF INMATES IN TRAINING PROHIBITED. The department may not use an inmate in a program that trains dogs to attack individuals without the inmate's permission.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.085, eff. Sept. 1, 1995.

#### SUBCHAPTER B. GENERAL MEDICAL AND MENTAL HEALTH CARE PROVISIONS

Sec. 501.051. MEDICAL FACILITIES AT UNIVERSITY OF TEXAS MEDICAL BRANCH. (a) The medical facility constructed by the institutional division at The University of Texas Medical Branch at Galveston shall be used as a teaching facility and be limited to patients who are teaching patients, as long as the medical facility is used for the treatment of department patients. The Board of Regents of The University of Texas System shall maintain and

operate the facility and provide professional staff services necessary for the care of patients in the facility, except that the department shall provide security at the facility. The facility shall provide the same level of care as is provided for patients in other facilities of The University of Texas Medical Branch at Galveston.

(b) If the medical facility ceases to be used for department patients, the facility shall revert to the medical branch for its use and be operated under the exclusive management and control of the Board of Regents of The University of Texas System.

(c) The medical facility shall be operated with funds appropriated for that purpose.

(d) The department shall establish and maintain an overnight holding facility for inmate outpatients at The University of Texas Medical Branch at Galveston.

(e) The department and The University of Texas Medical Branch at Galveston shall by rule adopt a memorandum of understanding that establishes the responsibilities of the department and the medical branch in maintaining the department's medical facility, providing security, and providing medical care. The memorandum must also establish a joint peer review committee and a joint utilization review committee. Each committee shall be composed of medical personnel employed by the department and by the medical branch. The joint peer review committee shall review all case files to determine whether the quality of medical care provided is adequate, according to accepted medical standards. The joint utilization review committee shall review all case files to determine whether treatment given is medically necessary under the circumstances of each case, taking into account accepted medical standards. The department shall coordinate the development of the memorandum of understanding.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.051 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.086, eff. Sept. 1, 1995.

Sec. 501.052. MEDICAL RESIDENCIES. The department may establish a residency program or a rotation program to employ or train physicians to treat inmates in the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.052 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.087, eff. Sept. 1, 1995.

Sec. 501.053. REPORTS OF PHYSICIAN MISCONDUCT. (a) If the department receives an allegation that a physician employed or under contract with the department has committed an action that constitutes a ground for the denial or revocation of the physician's license under Section 164.051, Occupations Code, the department shall report the information to the Texas State Board of Medical Examiners in the manner provided by Section 154.051, Occupations Code.

(b) The department shall provide the Texas State Board of Medical Examiners with a copy of any report or finding relating to an investigation of an allegation reported to the board.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code V.T.C.A., Government Code Sec. 500.053 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.088, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 14.763, eff. Sept. 1, 2001.

Sec. 501.054. AIDS AND HIV EDUCATION; TESTING. (a) In this section, "AIDS," "HIV," and "test result" have the meanings assigned by Section 81.101, Health and Safety Code.

(b) The department, in consultation with the Texas Department of Health, shall establish education programs to educate inmates and employees of the department about AIDS and HIV. In establishing the programs for inmates, the department shall design a program that deals with issues related to AIDS and HIV that are relevant to inmates while confined and a program that deals with issues related to AIDS and HIV that will be relevant to inmates after the inmates are released. The department shall design the programs to take into account relevant cultural and other differences among inmates. The department shall require each inmate in a facility operated by the department to participate in

education programs established under this subsection.

(c) The department shall require each employee of the department to participate in programs established under this section at least once during each calendar year.

(d) The department shall ensure that education programs for employees include information and training relating to infection control procedures. The department shall also ensure that employees have infection control supplies and equipment readily available.

(e) The department, in consultation with the Texas Department of Health, shall periodically revise education programs established under this section so that the programs reflect the latest medical information available on AIDS and HIV.

(f) The department shall adopt a policy for handling persons with AIDS or HIV infection who are in the custody of the department or under the department's supervision. The policy must be substantially similar to a model policy developed by the Texas Department of Health under Subchapter G, Chapter 85, Health and Safety Code.

(g) The department shall maintain the confidentiality of test results of an inmate indicating HIV infection after the inmate's discharge, release from a state jail, or release on parole or mandatory supervision and may not honor the request of an agency of the state or any person who requests a test result as a condition of housing or supervising the inmate while the inmate is on community supervision or parole or mandatory supervision, unless honoring the request would improve the ability of the inmate to obtain essential health and social services.

(h) The department shall report to the legislature not later than January 15 of each odd-numbered year concerning the implementation of this section and the participation of inmates and employees of the department in education programs established under this section.

(i) The institutional division may test an inmate confined in a facility operated by the division for human immunodeficiency virus at any time, but must test an inmate who is eligible for release before the inmate is released from the division. If the institutional division determines that an inmate has a positive test result, the division may segregate the inmate from other inmates. The institutional division shall report the results of a positive test to the Department of State Health Services for the purposes of notification and reporting as described by Sections 81.050-81.052, Health and Safety Code.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.054 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.089, eff. Sept. 1, 1995; Acts 2005, 79th Leg., ch. 1184, Sec. 1, eff. Sept. 1, 2005.

Sec. 501.055. REPORT OF INMATE DEATH. (a) If an inmate dies while in the custody of the department, an employee of the facility who is in charge of the inmate shall immediately notify the nearest justice of the peace serving in the county in which the inmate died and the office of internal affairs for the department. The justice shall personally inspect the body and make an inquiry as to the cause of death. The justice shall make written copies of evidence taken during the inquest, and give one copy to the director and one copy to a district judge serving in the county in which the inmate died. The judge shall provide the copy to the grand jury and, if the judge determines the evidence indicates wrongdoing, instruct the grand jury to thoroughly investigate the cause of death.

(b) Subsection (a) does not apply if the inmate:

(1) dies of natural causes while attended by a physician or a registered nurse; or

(2) is lawfully executed.

(c) If an inmate dies as described by Subsection (b)(1), the department or an authorized official of the department shall immediately attempt to notify the next of kin of the inmate that the inmate has died, state the time of the inmate's death, and inform the next of kin that unless the next of kin objects to the department within eight hours of the stated time of death, an autopsy will be conducted on the inmate.

(d) If the next of kin consents to the autopsy or does not within eight hours of the time of death object to the department about the autopsy, the department or an authorized official of the

department shall order an autopsy to be conducted on the inmate. The order of an autopsy under this subsection constitutes consent to an autopsy for the purposes of Article 49.13(b), Code of Criminal Procedure.

(e) For purposes of this section, an "inmate in the custody of the department" is a convicted felon who:

(1) is confined in a secure correctional facility operated by or under contract with the department; or

(2) has been admitted for treatment into a hospital while remaining in the custody of the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.055 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.090, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1422, Sec. 2, eff. June 20, 1997.

Sec. 501.0551. ANATOMICAL GIFTS. (a) The department, during the diagnostic process, shall provide each inmate with a form on which the inmate may indicate whether the inmate wishes to be an eye, tissue, or organ donor if the inmate dies while in the custody of the department.

(b) If an inmate indicates on the form that the inmate wishes to be a donor, the effect is the same as if the inmate executed a statement of gift under Section 521.401, Transportation Code.

(c) The department shall adopt procedures to provide inmates with the form described by Subsection (a).

(d) Expired.

Added by Acts 1997, 75th Leg., ch. 1422, Sec. 3, eff. June 20, 1997.

Sec. 501.056. CONTRACT FOR CARE OF MENTALLY ILL AND MENTALLY RETARDED INMATES. The department shall contract with the Texas Department of Mental Health and Mental Retardation for provision of Texas Department of Mental Health and Mental Retardation facilities, treatment, and habilitation for mentally ill and mentally retarded inmates in the custody of the department. The contract must provide:

(1) detailed characteristics of the mentally ill inmate population and the mentally retarded inmate population to be affected under the contract;

(2) for the respective responsibilities of the Texas Department of Mental Health and Mental Retardation and the department with regard to the care and supervision of the affected inmates; and

(3) that the department remains responsible for security.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.056 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.091, eff. Sept. 1, 1995.

Sec. 501.057. CIVIL COMMITMENT BEFORE PAROLE. (a) The department shall establish a system to identify mentally ill inmates who are nearing eligibility for release on parole.

(b) Not later than the 30th day before the initial parole eligibility date of an inmate identified as mentally ill, an institutional division psychiatrist shall examine the inmate. The psychiatrist shall file a sworn application for court-ordered temporary mental health services under Chapter 574, Health and Safety Code, if the psychiatrist determines that the inmate is mentally ill and as a result of the illness the inmate meets at least one of the criteria listed in Section 574.034, Health and Safety Code.

(c) The psychiatrist shall include with the application a sworn certificate of medical examination for mental illness in the form prescribed by Section 574.011, Health and Safety Code.

(d) The institutional division is liable for costs incurred for a hearing under Chapter 574, Health and Safety Code, that follows an application filed by a division psychiatrist under this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.057 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.092, eff. Sept. 1, 1995.

Sec. 501.058. COMPENSATION OF PSYCHIATRISTS. The amount of

compensation paid by the institutional division to psychiatrists employed by the division should be similar to the amount of compensation authorized for the Texas Department of Mental Health and Mental Retardation to pay to psychiatrists employed by the Texas Department of Mental Health and Mental Retardation. Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.058 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 501.060. TUBERCULOSIS SCREENING. (a) The board will establish requirements for tuberculosis screening of department employees and volunteers in a manner similar to that established for jail employees and volunteers as outlined in Subchapter B, Chapter 89, Health and Safety Code.

(b) The institutional division shall provide tuberculosis screening for a person if:

- (1) the person is an employee of:
  - (A) the institutional division;
  - (B) the correctional managed care plan operated by The University of Texas Medical Branch at Galveston; or
  - (C) the Texas Tech University Health Science Center Correctional Managed Care Plan; and
- (2) the person requests the screening.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 2, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Government Code Sec. 501.059 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(17), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 385, Sec. 1, eff. Aug. 28, 1995.

Sec. 501.061. ORCHIECTOMY FOR CERTAIN SEX OFFENDERS. (a) A physician employed or retained by the department may perform an orchiectomy on an inmate only if:

(1) the inmate has been convicted of an offense under Section 21.11, 22.011(a)(2), or 22.021(a)(2)(B), Penal Code, and has previously been convicted under one or more of those sections;

(2) the inmate is 21 years of age or older;

(3) the inmate requests the procedure in writing;

(4) the inmate signs a statement admitting the inmate committed the offense described by Subsection (a)(1) for which the inmate has been convicted;

(5) a psychiatrist and a psychologist who are appointed by the department and have experience in the treatment of sex offenders:

(A) evaluate the inmate and determine that the inmate is a suitable candidate for the procedure; and

(B) counsel the inmate before the inmate undergoes the procedure;

(6) the physician obtains the inmate's informed, written consent to undergo the procedure;

(7) the inmate has not previously requested that the department perform the procedure and subsequently withdrawn the request; and

(8) the inmate consults with a monitor as provided by Subsection (f).

(b) The inmate may change his decision to undergo an orchiectomy at any time before the physician performs the procedure. An inmate who withdraws his request to undergo an orchiectomy is ineligible to have the procedure performed by the department.

(c) Either the psychiatrist or psychologist appointed by the department under this section must be a member of the staff of a medical facility under contract with the department or the institutional division to treat inmates in the division.

(d) A physician who performs an orchiectomy on an inmate under this section is not liable for an act or omission relating to the procedure unless the act or omission constitutes negligence.

(e) The name of an inmate who requests an orchiectomy under this section is confidential, and the department may use the inmate's name only for purposes of notifying and providing information to the inmate's spouse if the inmate is married.

(f) The executive director of the Texas State Board of Medical Examiners shall appoint, in consultation with two or more executive directors of college or university institutes or centers for the study of medical ethics or medical humanities, a monitor to assist an inmate in his decision to have an orchiectomy. The monitor must have experience in the mental health field, in law, and in ethics. The monitor shall consult with the inmate to:

(1) ensure adequate information regarding the orchiectomy has been provided to the inmate by medical professionals providing treatment or advice to the inmate;

(2) provide information regarding the orchiectomy to the inmate if the monitor believes the inmate is not adequately informed about the orchiectomy;

(3) determine whether the inmate is free from coercion in his decision regarding the orchiectomy; and

(4) advise the inmate to withdraw his request for an orchiectomy if the monitor determines the inmate is being coerced to have an orchiectomy.

(g) A monitor appointed under Subsection (f) is not liable for damages arising from an act or omission under Subsection (f) unless the act or omission was intentional or grossly negligent.

Added by Acts 1997, 75th Leg., ch. 144, Sec. 1, eff. May 20, 1997.

Sec. 501.062. STUDY OF RATE OF RECIDIVISM AMONG SEX OFFENDERS. (a) The department shall conduct a long-term study, for at least 10 years after the date an orchiectomy is performed under Section 501.061, to measure the rate of recidivism among inmates who undergo the procedure.

(b) During the study period under Subsection (a), with respect to each inmate who undergoes an orchiectomy under Section 501.061 and who volunteers to undergo the evaluations described by this subsection, the department shall provide for:

(1) a psychiatric or psychological evaluation of the inmate; and

(2) periodic monitoring and medical evaluation of the presence of the hormone testosterone in the inmate's body.

(c) Before each regular session of the legislature, the department shall submit to the legislature a report that compares the rate of recidivism of sex offenders released from the institutional division who have undergone an orchiectomy to the rate of recidivism of those sex offenders who have not.

(d) The department may contract with a public or private entity to conduct the study required under this section.

Added by Acts 1997, 75th Leg., ch. 144, Sec. 1, eff. May 20, 1997.

Sec. 501.063. INMATE COPAYMENTS FOR CERTAIN HEALTH CARE VISITS. (a) An inmate confined in a facility operated by or under contract with the department, other than a halfway house, who initiates a visit to a health care provider shall make a copayment to the department in the amount of \$3. The inmate shall make the copayment out of the inmate's trust fund. If the balance in the fund is insufficient to cover the copayment, 50 percent of each deposit to the fund shall be applied toward the balance owed until the total amount owed is paid.

(b) The department may not charge a copayment for health care:

(1) provided in response to a life-threatening or emergency situation affecting the inmate's health;

(2) initiated by the department;

(3) initiated by the health care provider or consisting of routine follow-up, prenatal, or chronic care; or

(4) provided under a contractual obligation that is established under the Interstate Corrections Compact or under an agreement with another state that precludes assessing a copayment.

(c) The department shall adopt policies to ensure that before an inmate initiates a visit to a health care provider, the inmate is informed that a \$3 copayment will be deducted from the inmate's trust fund as required by Subsection (a).

(d) The department may not deny an inmate access to health care as a result of the inmate's failure or inability to make a copayment.

(e) The department shall deposit money received under this section in an account in the general revenue fund that may be used only to pay the cost of administering this section. At the beginning of each fiscal year, the comptroller shall transfer any surplus from the preceding fiscal year to the state treasury to the credit of the general revenue fund.

Added by Acts 1997, 75th Leg., ch. 257, Sec. 1, eff. Jan. 1, 1998. Renumbered from V.T.C.A., Government Code Sec. 501.061 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(45), eff. Sept. 1, 1999.

#### SUBCHAPTER C. CONTINUITY OF CARE PROGRAMS; REENTRY PROGRAM

Sec. 501.093. INMATES SUFFERING FROM DRUG OR ALCOHOL ABUSE. (a) The department, the Texas Department of Mental Health and Mental Retardation, and the Texas Commission on Alcohol and

Drug Abuse shall by rule adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for inmates with a history of drug or alcohol abuse.

(b) An agency of the state not listed in Subsection (a) that determines that it may provide services to inmates with a history of drug or alcohol abuse may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.

(c) The memorandum of understanding must establish methods for:

(1) identifying inmates with a history of drug or alcohol abuse;

(2) notifying the pardons and paroles division, the Texas Department of Mental Health and Mental Retardation, and the commission as to when an inmate with a history of drug or alcohol abuse is to be released and as to the inmate's release destination;

(3) identifying the services needed by inmates with a history of drug or alcohol abuse to reenter the community successfully; and

(4) determining the manner in which each agency that participates in the establishment of the memorandum can share information about inmates and use that information to provide continuity of care.

(d) The Texas Commission on Alcohol and Drug Abuse shall coordinate the memorandum of understanding.

(e) The institutional division shall fund and operate a full service alcoholism and drug counseling program for chemically dependent inmates. The institutional division shall provide a sufficient number of alcoholism and drug counselors to provide counseling services for not less than 80 percent of those inmates in need of alcohol or drug counseling. The institutional division also shall provide a sufficient administrative and supervisory staff to organize, operate, and evaluate a program that motivates those inmates with a history of alcohol or drug-related problems to pursue a socially acceptable and chemically free lifestyle. The institutional division shall use funds received for these purposes and shall actively pursue federal grants for helping fund the program.

(f) The institutional division may require that inmates selected by the division attend a substance abuse treatment program that includes recognition and awareness of the disease concept of addiction. The institutional division may use suitable inmates as tutors in the program but must ensure that the inmate tutors do not exercise any authority over other inmates. The institutional division shall provide educational materials designed to assist an inmate in understanding the inmate's alcohol or drug dependency problem.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.093 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.093, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1269, Sec. 3, eff. Sept. 1, 1997.

Sec. 501.0931. IN-PRISON THERAPEUTIC COMMUNITIES. (a) The institutional division shall establish a program to confine and treat in in-prison therapeutic communities inmates determined by the division to have a history of drug or alcohol abuse and to need drug or alcohol abuse treatment. The program is in addition to existing educational and substance abuse treatment services provided to inmates.

(b) The institutional division and the Texas Commission on Alcohol and Drug Abuse shall jointly develop methods of screening and assessing inmates to determine their need for treatment for alcohol or drug abuse problems. The institutional division shall screen for alcohol and drug abuse each inmate who is transferred to the custody of the institutional division. The institutional division shall assess the inmates who are identified as having a substance abuse problem and shall determine the severity of the problem and the need for treatment.

(c) The program must consist of a treatment program of indeterminate length, not to exceed 12 months. The institutional division shall make a referral of an inmate to a program based on the severity of the substance abuse problem, eligibility of the inmate, and the availability of treatment space. An inmate who has

not more than 12 months remaining in the inmate's sentence before the earliest date the inmate is eligible for parole is eligible for the program.

(d) The institutional division shall separate inmates participating in the program from the general population of the division and house the inmates in discrete units or areas within units, except during the diagnostic process or at other times determined to be necessary by the division for medical or security purposes. The institutional division shall separate an inmate who successfully completes the program from the general population of the division during any period after completion and before the inmate is discharged or released on parole or mandatory supervision from the department.

(e) The program 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 institutional division shall establish a graded system of rewards and sanctions for inmates who participate in the program.

(f) The institutional division shall employ or contract with qualified professionals to implement the program. 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.

(g) The institutional division shall adopt:

- (1) a procedure for determining which inmates are the best candidates for participation in the program, with priority for those inmates who volunteer;
- (2) a procedure for determining which inmates may be required to participate in the program; and
- (3) rules of conduct for inmates participating in the program.

(h) If the qualified professional implementing the program determines that an inmate is not complying with the rules of the program, the qualified professional shall notify the institutional division of that fact and the institutional division shall end the inmate's participation in the program and transfer the inmate out of the program.

(i) The institutional division shall provide at least 800 beds for housing participants in the program. The institutional division not less often than every two years shall determine whether the division should increase the number of beds provided by the division for the program.

(j) Neither the institutional division nor a qualified professional implementing the program may operate the program in a manner that automatically excludes inmates who do not volunteer to participate, and the division and the treatment provider shall attempt to encourage nonvolunteer inmates to participate.

(k) If funding is available, the Criminal Justice Policy Council, with the assistance of the institutional division, shall develop methods to evaluate the processes used by the division in providing the program and the level of success achieved by the program.

Added by Acts 1991, 72nd Leg., ch. 490, Sec. 3, eff. Dec. 1, 1991. Transferred from Vernon's Ann.Civ.St. art. 4413(401), Sec. 1.131 and amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 9.02, eff. Aug. 29, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 3.02, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.094, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1269, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 892, Sec. 23, eff. Sept. 1, 2003.

Sec. 501.095. INMATES WITH HISTORY OF CHRONIC UNEMPLOYMENT. (a) The department and the Texas Employment Commission shall by rule adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for inmates with a history of chronic unemployment.

(b) An agency of the state not listed in this section that determines that it may provide services to inmates with a history of chronic unemployment may participate in the development of the

memorandum, if the parties listed in this section approve the agency's participation.

(c) The memorandum of understanding must establish methods for:

(1) identifying inmates with a history of chronic unemployment;

(2) notifying the pardons and paroles division and the commission as to when an inmate with a history of chronic unemployment is to be released and as to the inmate's release destination;

(3) identifying the services needed by inmates with a history of chronic unemployment to reenter the community successfully; and

(4) determining the manner in which each agency that participates in the establishment of the memorandum can share information about inmates and use that information to provide continuity of care.

(d) The Texas Workforce Commission shall coordinate the development of the memorandum of understanding.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.095 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.095, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.62, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 817, Sec. 10.02, eff. Sept. 1, 2003.

Sec. 501.096. REENTRY PROGRAM FOR LONG-TERM INMATES. (a) The institutional division shall establish a program to assist inmates that have served long terms in preparing for their release from the division.

(b) In order to participate in the program established under this section, an inmate must:

(1) be serving a sentence of 30 years or longer;

(2) be within one year of the date projected for release;

(3) volunteer for participation in the program; and

(4) be approved for participation in the program by the institutional division.

(c) The institutional division shall provide to participating inmates academic and vocational education, employment counseling, and individual therapy. Services provided under this subsection must be designed to address the special needs of inmates who have served long terms of confinement in the institutional division.

(d) The department shall determine the special needs of inmates who have served long terms of confinement in the institutional division and shall identify and develop community resources to meet those needs.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code Sec. 500.096 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.096, eff. Sept. 1, 1995.

Sec. 501.097. REINTEGRATION SERVICES. (a) The department and the Texas Workforce Commission shall by rule adopt a memorandum of understanding that establishes their respective responsibilities for providing inmates who are released into the community on parole or other conditional release with a network of centers designed to provide education, employment, and other support services based on a "one stop for service" approach.

(b) An agency of the state not listed in this section that determines that it may provide reintegration services to inmates similar to those described by Subsection (a) may participate in the development of the memorandum, if the department and the Texas Workforce Commission approve the agency's participation.

Added by Acts 1997, 75th Leg., ch. 1360, Sec. 6, eff. Sept. 1, 1997.

#### SUBCHAPTER D. INMATE HOUSING

Sec. 501.111. TEMPORARY HOUSING. (a) Except as provided by Subsection (b) and Subsection (c), the institutional division may not house inmates in tents, cellblock runs, hallways, laundry distribution rooms, converted dayroom space, gymnasiums, or any other facilities not specifically built for housing.

(b) Temporary housing may be used to house roving inmate construction crews and inmates temporarily displaced only because of housing renovation, fire, natural disaster, riot or hostage

situations, if the institutional division provides those inmates with reasonable sanitary hygiene facilities.

(c) The institutional division may house inmates in tents or tent-like structures unless prohibited by federal law or a specific court order.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 3, eff. June 16, 1991. Amended by Acts 1993, 73rd Leg., ch. 845, Sec. 1, eff. June 19, 1993.

Sec. 501.112. MIXING CLASSIFICATIONS PROHIBITED. (a) Except as provided by Subsection (b), the institutional division may not house inmates with different custody classifications in the same cellblock or dormitory unless the structure of the cellblock or dormitory allows the physical separation of the different classifications of inmates.

(b) If an appropriate justification is provided by the unit classification committee or the state classification committee, the board may permit the institutional division to house inmates with different custody classifications in the same cellblock or dormitory, but only until sufficient beds become available in the division to allow the division to house the inmates in the manner required by Subsection (a) and in no event for more than 30 days.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 3, eff. June 16, 1991.

Sec. 501.113. TRIPLE-CELLING PROHIBITED; SINGLE-CELLING REQUIRED FOR CERTAIN INMATES. (a) The institutional division may not house more than two inmates in a cell designed for occupancy by one inmate or two inmates.

(b) The institutional division shall house the following classes of inmates in single occupancy cells:

- (1) inmates confined in death row segregation;
- (2) inmates confined in administrative segregation;
- (3) inmates assessed as mentally retarded and whose habilitation plans recommend housing in a single occupancy cell;
- (4) inmates with a diagnosed psychiatric illness being treated on an inpatient or outpatient basis whose individual treatment plans recommend housing in single occupancy cells; and
- (5) inmates whose medical treatment plans recommend housing in a single occupancy cell.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 3, eff. June 16, 1991.

#### SUBCHAPTER E. MANAGED HEALTH CARE

Sec. 501.131. DEFINITION. In this subchapter, "committee" means the Correctional Managed Health Care Committee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.132. APPLICATION OF SUNSET ACT. The Correctional Managed Health Care Committee is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this subchapter expires September 1, 2007.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 4.01, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1227, Sec. 1.02, eff. Sept. 1, 2005.

Sec. 501.133. COMMITTEE MEMBERSHIP. (a) The committee consists of nine members appointed as follows:

(1) two members employed full-time by the department, at least one of whom is a physician, appointed by the executive director;

(2) two members employed full-time by The University of Texas Medical Branch at Galveston, at least one of whom is a physician, appointed by the president of the medical branch;

(3) two members employed full-time by the Texas Tech University Health Sciences Center, at least one of whom is a physician, appointed by the president of the university; and

(4) three public members appointed by the governor who are not affiliated with the department or with any entity with which the committee has contracted to provide health care services under this chapter, at least two of whom are licensed to practice medicine in this state.

(b) An appointment to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.134. PUBLIC MEMBER ELIGIBILITY. A person may not be a public member of the committee if the person or the person's spouse:

- (1) is employed by or participates in the management

of a business entity or other organization regulated by or receiving money from the department or the committee;

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

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

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.135. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) 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 interest.

(b) A person may not be a member of the committee and may not be a committee 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 health care or health care services; or

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

(c) A person may not be a member of the committee or act as the general counsel to the committee if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the committee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.136. TERMS OF OFFICE. Committee members appointed by the governor serve staggered six-year terms, with the term of one of those members expiring on February 1 of each odd-numbered year. Other committee members serve at the will of the appointing official or until termination of the member's employment with the entity the member represents.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.137. PRESIDING OFFICER. The governor shall designate a physician member of the committee as presiding officer. The presiding officer serves in that capacity at the will of the governor.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.138. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 501.133;

(2) does not maintain during service on the committee the qualifications required by Section 501.133;

(3) is ineligible for membership under Section 501.134 or 501.135;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(b) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(c) If the managed health care administrator has knowledge that a potential ground for removal exists, the administrator shall notify the presiding officer of the committee of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the managed health care administrator shall notify the next highest ranking officer of the committee, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.139. MEETINGS. (a) The committee shall meet at least once in each quarter of the calendar year and at any other time at the call of the presiding officer.

(b) The committee may hold a meeting by telephone conference call or other video or broadcast technology.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.140. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the committee 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 committee;  
(2) the programs operated by the committee;  
(3) the role and functions of the committee;  
(4) the rules of the committee with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the committee;  
(6) the results of the most recent formal audit of the committee;

(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 committee or the Texas Ethics Commission.

(c) A person appointed to the committee 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. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.141. COMPENSATION; REIMBURSEMENT. A committee member serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in the performance of the duties of the committee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.142. ADMINISTRATION; PERSONNEL. The committee may hire a managed health care administrator, who may employ personnel necessary for the administration of the committee's duties. The committee shall pay necessary costs for its operation, including costs of hiring the managed health care administrator and other personnel, from funds appropriated by the legislature to the department for correctional health care.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.143. DIVISION OF RESPONSIBILITIES. The committee shall develop and implement policies that clearly separate the policy-making responsibilities of the committee and the management responsibilities of the managed health care administrator and staff of the committee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.144. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The managed health care administrator or the administrator's designee shall provide to members of the committee and to committee employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.145. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The managed health care administrator or the administrator'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.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the committee 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 committee's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

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

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

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.146. MANAGED HEALTH CARE PLAN. (a) The committee shall develop a managed health care plan for all persons confined by the department that includes:

(1) the establishment of a managed health care provider network of physicians and hospitals that will serve the department as the exclusive health care provider for persons confined in institutions operated by the department;

(2) cost containment studies;

(3) care case management and utilization management studies performed for the department; and

(4) concerning the establishment of criteria for hospitals, home health providers, or hospice providers, a provision requiring the managed health care plan to accept certification by the Medicare program under Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.), and its subsequent amendments, as an alternative to accreditation by the Joint Commission on Accreditation of Healthcare Organizations.

(b) To implement the managed health care plan, The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center, for employees who are entitled to retain salary and benefits applicable to employees of the Texas Department of Criminal Justice under Section 9.01, Chapter 238, Acts of the 73rd Legislature, Regular Session, 1993, may administer, offer, and report through their payroll systems participation by those employees in the Texas employees group benefits program and the Employees Retirement System of Texas.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.514, eff. Sept. 1, 2003.

Sec. 501.147. COMMITTEE AUTHORITY TO CONTRACT. (a) The committee may enter into a contract on behalf of the department to fully implement the managed health care plan under this subchapter. A contract entered into under this subsection must include provisions necessary to ensure that The University of Texas Medical Branch at Galveston is eligible for and makes reasonable efforts to participate in the purchase of prescription drugs under Section 340B, Public Health Service Act (42 U.S.C. Section 256b).

(b) The committee may, in addition to providing services to the department, contract with other governmental entities for similar health care services and integrate those services into the managed health care provider network.

(c) In contracting for implementation of the managed health care plan, the committee, to the extent possible, shall integrate the managed health care provider network with the public medical schools of this state and the component and affiliated hospitals of those medical schools. The contract must authorize The University of Texas Medical Branch at Galveston to contract directly with the Texas Tech University Health Sciences Center for the provision of health care services. The Texas Tech University Health Sciences Center shall cooperate with The University of Texas Medical Branch at Galveston in its efforts to participate in the purchase of prescription drugs under Section 340B, Public Health Service Act (42 U.S.C. Section 256b).

(d) For services that the public medical schools and their components and affiliates cannot provide, the committee shall initiate a competitive bidding process for contracts with other providers for medical care to persons confined by the department.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 236, Sec. 1, eff. Sept. 1, 2001.

Sec. 501.148. GENERAL POWERS AND DUTIES OF COMMITTEE. (a) The committee shall:

(1) develop the contracts for health care services in

consultation with the department and the health care providers;

(2) determine a capitation rate reflecting the true cost of correctional health care, including necessary catastrophic reserves;

(3) monitor and develop reports on general quality of care issues;

(4) act as an independent third party in the allocation of money to inmate health care providers, including the allocation of money between The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center;

(5) act as an independent third party for the purpose of dispute resolution in the event of a disagreement relating to inmate health care services between:

(A) the department and the health care providers;  
or

(B) The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center;  
and

(6) enforce compliance with contract provisions, including requiring corrective action if care does not meet expectations as determined by quality of care monitoring activities.

(b) The committee shall evaluate and recommend to the board sites for new medical facilities that appropriately support the managed health care provider network.

(c) The committee may contract with an individual for financial consulting services and may make use of financial monitoring of the managed health care plan to assist the committee in determining an accurate capitation rate.

(d) The committee may contract with an individual for actuarial consulting services to assist the committee in determining trends in the health of the inmate population and the impact of those trends on future financial needs.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.  
Amended by Acts 2001, 77th Leg., ch. 236, Sec. 2, eff. Sept. 1, 2001.

Sec. 501.149. DISEASE MANAGEMENT SERVICES. (a) In this section, "disease management services" means services to assist an individual manage a disease or other chronic health condition, such as heart disease, diabetes, respiratory illness, end-stage renal disease, HIV infection, or AIDS, and with respect to which the committee identifies populations requiring disease management.

(b) A managed health care plan provided under this chapter must provide disease management services in the manner required by the committee, including:

(1) patient self-management education;  
(2) provider education;  
(3) evidence-based models and minimum standards of care;

(4) standardized protocols and participation criteria; and

(5) physician-directed or physician-supervised care.

(c)-(e) Expired.

Added by Acts 2003, 78th Leg., ch. 589, Sec. 6, eff. June 20, 2003.

Sec. 501.150. QUALITY OF CARE MONITORING BY THE DEPARTMENT AND HEALTH CARE PROVIDERS. (a) The committee shall establish a procedure for monitoring the quality of care delivered by the health care providers. Under the procedure, the department's monitoring activities must be limited to investigating medical grievances, ensuring access to medical care, and conducting periodic operational reviews of medical care provided at its units.

(b) The department and the medical care providers shall cooperate in monitoring quality of care. The clinical and professional resources of the health care providers shall be used to the greatest extent feasible for clinical oversight of quality of care issues.

(c) The department and the medical care providers shall communicate the results of their monitoring activities to the committee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.151. COMPLAINTS. (a) The committee shall maintain a file on each written complaint filed with the committee. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the

committee;

- (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 committee closed the file without taking action other than to investigate the complaint.

(b) The committee shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the committee's policies and procedures relating to complaint investigation and resolution.

(c) The committee, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.152. PUBLIC PARTICIPATION. The committee shall develop and implement policies that provide the public with a reasonable opportunity to appear before the committee and to speak on any issue under the jurisdiction of the committee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.