

GOVERNMENT CODE

CHAPTER 509. COMMUNITY JUSTICE ASSISTANCE DIVISION

Sec. 509.001. DEFINITIONS. In this chapter:

(1) "Community corrections facility" means a physical structure, established by the judges described by Section 76.002 after authorization of the establishment of the structure has been included in the local community justice plan, that is operated by a department or operated for a department by an entity under contract with the department, for the purpose of treating persons who have been placed on community supervision or who are participating in a drug court program established under Chapter 469, Health and Safety Code, and providing services and programs to modify criminal behavior, deter criminal activity, protect the public, and restore victims of crime. The term includes:

(A) a restitution center;  
(B) a court residential treatment facility;  
(C) a substance abuse treatment facility;  
(D) a custody facility or boot camp;  
(E) a facility for an offender with a mental impairment, as defined by Section 614.001, Health and Safety Code; and

(F) an intermediate sanction facility.

(2) "Department" means a community supervision and corrections department established under Chapter 76.

(3) "Division" means the community justice assistance division.

(4) "State aid" means funds appropriated by the legislature to the division to provide financial assistance to:

(A) the judges described by Section 76.002 for:  
(i) a department established by the judges;  
(ii) the development and improvement of community supervision services and community-based correctional programs;

(iii) the establishment and operation of community corrections facilities; and

(iv) assistance in conforming with standards and policies of the division and the board; and

(B) state agencies, counties, municipalities, and nonprofit organizations for the implementation and administration of community-based sanctions and programs.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.23(a), eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 255, Sec. 9, eff. May 30, 2005; Acts 2005, 79th Leg., ch. 1139, Sec. 3, eff. June 18, 2005.

Sec. 509.002. PURPOSE. The purpose of this chapter is to:

(1) allow localities to increase their involvement and responsibility in developing sentencing programs that provide effective sanctions for criminal defendants;

(2) provide increased opportunities for criminal defendants to make restitution to victims of crime through financial reimbursement or community service;

(3) provide increased use of community penalties designed specifically to meet local needs; and

(4) promote efficiency and economy in the delivery of community-based correctional programs consistent with the objectives defined by Section 1.02, Penal Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995.

Sec. 509.003. STANDARDS AND PROCEDURES. (a) The division shall propose and the board shall adopt reasonable rules establishing:

(1) minimum standards for programs, community corrections facilities and other facilities, equipment, and other aspects of the operation of departments;

(2) a list and description of core services that should be provided by each department;

(3) methods for measuring the success of community supervision and corrections programs, including methods for measuring rates of diversion, program completion, and recidivism;

(4) a format for community justice plans; and

(5) minimum standards for the operation of substance abuse facilities and programs funded through the division.

(b) In establishing standards relating to the operation of departments, the division shall consider guidelines developed and presented by the advisory committee on community supervision and

corrections department management to the judicial advisory council established under Section 493.003(b).

(c) A substance abuse facility or program operating under the standards is not required to be licensed or otherwise approved by any other state or local agency.

(d) The division shall develop a screening and evaluation procedure for use in accordance with Section 76.017. The division shall determine if a single screening and evaluation procedure may be used in each program. If the division determines that a single procedure is not feasible, the division shall identify and approve procedures that may be used.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.24(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1269, Sec. 5, eff. Sept. 1, 1997.

Sec. 509.004. RECORDS, REPORTS, AND INFORMATION SYSTEMS. (a) The division shall require each department to:

(1) keep financial and statistical records determined necessary by the division;

(2) submit a community justice plan and all supporting information requested by the division;

(3) present data requested by the division as necessary to determine the amount of state aid for which the department is eligible;

(4) submit periodic financial audits and statistical reports to the division; and

(5) submit to the Department of Public Safety the full name, address, date of birth, social security number, and driver's license number of each person restricted to the operation of a motor vehicle equipped with a device that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the restricted operator.

(b) The division shall develop an automated tracking system that:

(1) is capable of receiving tracking data from community supervision and corrections departments' caseload management and accounting systems;

(2) is capable of tracking the defendant and the sentencing event at which the defendant was placed on community supervision by name, arrest charge code, and incident number;

(3) provides the division with the statistical data it needs to support budget requests and satisfy requests for information; and

(4) is compatible with the requirements of Chapter 60, Code of Criminal Procedure, and the information systems used by the institutional division and the pardons and paroles division of the Texas Department of Criminal Justice.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.25(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1007, Sec. 1, eff. June 15, 2001.

Sec. 509.005. INSPECTIONS; AUDITS; EVALUATIONS. The community justice assistance division shall from time to time inspect and evaluate and the internal audit division may at any reasonable time conduct an audit of the financial, program compliance, or performance records of a department to determine:

(1) compliance with the division's rules and standards;

(2) economical and efficient use of resources;

(3) accomplishment of goals and objectives;

(4) reliability and integrity of information; and

(5) safeguarding of assets.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.26(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 490, Sec. 5, eff. Sept. 1, 1997.

Sec. 509.006. COMMUNITY CORRECTIONS FACILITIES. (a) To establish and maintain community corrections facilities, the division may:

(1) fund division-managed facilities;

(2) fund contracts for facilities that are managed by departments, counties, or vendors;

(3) provide funds to departments for the renovation of leased or donated buildings for use as facilities;

(4) accept ownership of real property pursuant to an agreement under which the division agrees to construct a facility and offer the facility for lease;

(5) allow departments, counties, or municipalities to accept and use buildings provided by units of local governments, including rural hospital districts, for use as facilities;

(6) provide funds to departments, counties, or municipalities to lease, purchase, or construct buildings or to lease or purchase land or other real property for use as facilities, lease or purchase equipment necessary for the operation of facilities, and pay other costs as necessary for the management and operation of facilities; and

(7) be a party to a contract for correctional services or approve a contract for those services if the state, on a biennial appropriations basis, commits to fund a portion of the contract.

(b) The division may require that community corrections facilities comply with state and local safety laws and may develop standards for:

(1) the physical plant and operation of community corrections facilities;

(2) programs offered by community corrections facilities;

(3) disciplinary rules for residents of community corrections facilities; and

(4) emergency furloughs for residents of community corrections facilities.

(c) Minimum standards for community corrections facilities must include requirements that a facility:

(1) provide levels of security appropriate for the population served by the facility, including as a minimum a monitored and structured environment in which a resident's interior and exterior movements and activities can be supervised by specific destination and time; and

(2) accept only those residents who are physically and mentally capable of participating in any program offered at the facility that requires strenuous physical activity, if participation in the program is required of all residents of the facility.

(d) Standards developed by the division that relate to state jail felony facilities must meet minimum requirements adopted by the board for the operation of state jail felony facilities. The board may adopt rules and procedures for the operation of more than one type of state jail felony facility.

(e) With the consent of the department operating or contracting for the operation of the facility, the board may designate any community corrections facility that is an intermediate sanction facility as a state jail felony facility and confine state jail felons in that facility.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995.

Sec. 509.007. COMMUNITY JUSTICE PLAN. (a) The division shall require as a condition to payment of state aid to a department or county under Section 509.011 and eligibility for payment of costs under Section 499.124 that a community justice plan be submitted for the department. The community justice council shall submit the plan required by this subsection. A community justice council may not submit a plan under this section unless the plan is first approved by the judges described by Section 76.002 who established the department served by the council. The council shall submit a revised plan to the division each odd-numbered year by a date designated by the division. A plan may be amended at any time with the approval of the division.

(b) A community justice plan required under this section must include:

(1) a statement of goals and priorities and of commitment by the community justice council, the judges described by Section 76.002 who established the department, and the department director to achieve a targeted level of alternative sanctions;

(2) a description of methods for measuring the success of programs provided by the department or provided by an entity served by the department; and

(3) a proposal for the use of state jail felony facilities and, at the discretion of the community justice council, a regional proposal for the construction, operation, maintenance,

or management of a state jail felony facility by a county, a community supervision and corrections department, or a private vendor under a contract with a county or a community supervision and corrections department.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 2005, 79th Leg., ch. 255, Sec. 10, eff. May 30, 2005.

Sec. 509.008. OFFICER CERTIFICATION. (a) The division shall establish officer certification programs for department residential officers and department supervision officers. A program must include coursework relating to the proper performance of the officer's duties and an examination prepared by the division administered at the conclusion of the coursework. The examination must test officers on knowledge required for the proper performance of their duties. An officer who satisfactorily completes the coursework and examination shall be certified.

(b) Except as provided by Subsections (d), (e), and (f), a department may not continue to employ an officer unless the officer was exempt from certification requirements on September 1, 1989, or satisfactorily completes the coursework and examination required by this section not later than the first anniversary of the date on which the officer begins employment with the department.

(c) The division shall provide adequate notification of the results of examinations and provide other relevant information regarding examinations as requested by examinees.

(d) The division may extend the period for the coursework and examination requirements for an officer under Subsection (b) or (f) for an additional period not to exceed one year because:

(1) the department has a need to increase hiring to reduce caseloads to a level necessary to receive full state aid; or

(2) an extenuating circumstance, as determined by the division director, prevents the officer from completing the coursework and examination within the required period.

(e) The division may waive certification requirements other than a fee requirement for an applicant with a valid certificate from another state that has certification requirements substantially similar to those of this state.

(f) A department may not continue to employ a residential officer unless the officer successfully completes the coursework and examination requirement under this section before the first anniversary of the date on which the officer begins the officer's assignment to a residential facility.

(g) The division may deny, revoke, or suspend a certification or may reprimand an officer for a violation of a standard adopted under this chapter.

(h) If the division proposes to deny, revoke, or suspend an officer's certification or to reprimand an officer, the officer is entitled to a hearing before the division or a hearings examiner appointed by the division. The division shall adopt procedures for appeals by officers of decisions made by the division to deny, revoke, or suspend a certification or to reprimand an officer.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.27(a), eff. Sept. 1, 1997.

Sec. 509.009. TRAINING. The division may provide pre-service, in-service, and educational training and technical assistance to departments to promote compliance with the standards under this chapter and to assist departments in improving the operation of department services.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995.

Sec. 509.010. PUBLIC MEETING. (a) The division may not take an action under Sections 509.006(a)(1) through (6) relating to a community corrections facility established after August 31, 1989, unless a public meeting is held about the proposed action before the action is taken.

(b) Before the 30th day before the date of the meeting, the division, the department that the facility is to serve, or a vendor proposing to operate the facility shall:

(1) publish by advertisement that is not less than 3-1/2 inches by 5 inches notice of the date, hour, place, and subject of the hearing required by Subsection (a) in three consecutive issues of a newspaper of, or in newspapers that collectively have, general circulation in the county in which the proposed facility is to be located; and

(2) mail a copy of the notice to each police chief, sheriff, city council member, mayor, county commissioner, county judge, school board member, state representative, and state senator who serves or represents the area in which the proposed facility is to be located, unless the proposed facility has been previously authorized to operate at a particular location by a community justice council under Section 76.003.

(c) If a private vendor, other than a private vendor that operates as a nonprofit corporation, proposes to operate a facility that is the subject of a public meeting under this section, the private vendor is responsible for the costs of providing notice and holding the public meeting required by this section.

(d) In describing the subject of a hearing for purposes of publishing notice under this section, the notice must specifically state the address of the facility on which a proposed action is to be taken and describe the proposed action.

(e) The division, a department, or a private vendor shall hold a public meeting required by Subsection (a) at a site as close as practicable to the location at which the proposed action is to be taken. The division, department, or vendor may not hold the meeting on a Saturday, Sunday, or legal holiday and must begin the meeting after 6 p.m.

(f) A department, a county, a municipality, or a combination involving more than one of those entities may not take an action under Section 76.010 unless the community justice council serving the entity or entities holds a public meeting before the action is taken, with notice provided and the hearing to be held in the same manner as provided by Subsections (a) through (e).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 478, Sec. 1, eff. Sept. 1, 1997.

Sec. 509.011. PAYMENT OF STATE AID. (a) If the division determines that a department complies with division standards and if the community justice council has submitted a community justice plan under Section 76.003 and the supporting information required by the division and the division determines the plan and supporting information are acceptable, the division shall prepare and submit to the comptroller vouchers for payment to the department as follows:

(1) for per capita funding, a per diem amount for each felony defendant directly supervised by the department pursuant to lawful authority;

(2) for per capita funding, a per diem amount for a period not to exceed 182 days for each defendant supervised by the department pursuant to lawful authority, other than a felony defendant; and

(3) for formula funding, an annual amount as computed by multiplying a percentage determined by the allocation formula established under Subsection (f) times the total amount provided in the General Appropriations Act for payments under this subdivision.

(a-1) Notwithstanding Subsection (a), the division shall prepare and submit to the comptroller vouchers for payment to the Employees Retirement System of Texas for contributions for group coverage in which a department participates under Section 1551.114, Insurance Code. Payment of contributions under this subsection shall be made from the money that the division would otherwise allocate to a department under Subsections (a) and (b).

(b) The division may use discretionary grant funds to further the purposes of this chapter by contracting for services with state agencies or nonprofit organizations. The division may also make discretionary grants to departments, municipalities, or counties for the following purposes:

(1) development and operation of pretrial and presentencing services;

(2) electronic monitoring services, surveillance supervision programs, and controlled substances testing services;

(3) research projects to evaluate the effectiveness of community corrections programs, if the research is conducted in cooperation with the Criminal Justice Policy Council;

(4) contract services for felony defendants;

(5) residential services for misdemeanor defendants who exhibit levels of risk or needs indicating a need for confinement and treatment, as described by Section 509.005(b);

(6) establishment or operation of county correctional centers under Subchapter H, Chapter 351, Local Government Code, or

community corrections facilities for which the division has established standards under Section 509.006;

(7) development and operation of treatment alternative to incarceration programs under Section 76.017; and

(8) other purposes determined appropriate by the division and approved by the board.

(c) Each department, county, or municipality shall deposit all state aid received from the division in a special fund of the county treasury or municipal treasury, as appropriate, to be used solely for the provision of services, programs, and facilities under this chapter or Subchapter H, Chapter 351, Local Government Code.

(d) The division shall provide state aid to each department on a biennial basis, pursuant to the community justice plan for the biennium submitted by the department. A department with prior division approval may transfer funds from one program or function to another program or function.

(e) In establishing per diem payments authorized by Subsections (a)(1) and (a)(2), the division shall consider the amounts appropriated in the General Appropriations Act for basic supervision as sufficient to provide basic supervision in each year of the fiscal biennium.

(f) The division annually shall compute for each department for community corrections program formula funding a percentage determined by assigning equal weights to the percentage of the state's population residing in the counties served by the department and the department's percentage of all felony defendants in the state under direct community supervision. The division shall use the most recent information available in making computations under this subsection. The board by rule may adopt a policy limiting for all departments the percentage of benefit or loss that may be realized as a result of the operation of the formula.

(g) If the Texas Department of Criminal Justice determines that at the end of a biennium a department maintains in reserve an amount greater than six months' basic supervision operating costs for the department, the Texas Department of Criminal Justice in the succeeding biennium may reduce the amount of per capita and formula funding provided under Subsection (a) so that in the succeeding biennium the department's reserves do not exceed six months' basic supervision operating costs. The Texas Department of Criminal Justice may adopt policies and standards permitting a department to maintain reserves in an amount greater than otherwise permitted by this subsection as necessary to cover emergency costs or implement new programs with the approval of the Texas Department of Criminal Justice. The Texas Department of Criminal Justice may distribute unallocated per capita or formula funds to provide supplemental funds to individual departments to further the purposes of this chapter.

(h) A community supervision and corrections department at any time may transfer to the Texas Department of Criminal Justice any unencumbered state funds held by the department. The Texas Department of Criminal Justice may distribute funds received from a community supervision and corrections department under this subsection to provide supplemental funds to individual departments to further the purposes of this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.28(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.39, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1030, Sec. 2.02, eff. Sept. 1, 2004; Acts 2005, 79th Leg., ch. 255, Sec. 11, eff. May 30, 2005.

Sec. 509.012. REFUSAL OR SUSPENSION OF STATE AID. (a) The division shall take one or more of the following actions against a department that the division determines is not in substantial compliance with division standards or requirements adopted under Sections 509.003 through 509.006:

(1) a reduction, refusal, or suspension of payment of state aid to the department; or

(2) an imposition of budget control over the department.

(b) The board shall provide for notice and a hearing in cases in which the division proposes to take an action authorized by this section, other than a refusal by the division to provide discretionary grant funding or a reduction by the division of

discretionary grant funding during a funding cycle. The division shall define with specificity the conduct that constitutes substantial noncompliance with division standards and shall establish the procedures to be used in imposing or waiving a sanction authorized by this section, subject to approval of the definition and the procedures by adoption by the board.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.29(a), eff. Sept. 1, 1997.

Sec. 509.015. TREATMENT STANDARDS FOR CERTAIN STATE JAIL FELONIES. The division shall propose and the board shall adopt best practices standards for substance abuse treatment conditions imposed under Section 15(c)(2), Article 42.12, Code of Criminal Procedure.

Added by Acts 2003, 78th Leg., ch. 1122, Sec. 2, eff. Sept. 1, 2003.