

Ch. 938, § 1

70th LEGISLATURE—REGULAR SESSION

CHAPTER 939

H.B. No. 83

AN ACT

relating to the operations and continuation of the Texas Adult Probation Commission, the continuation of the state's participation in the Uniform Act for Out-of-State Parolee Supervision, and to alternative forms of probation and probation revocation available to courts.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 3a, Article 42.11, Code of Criminal Procedure, is amended to read as follows:

Sec. 3a. The office of Interstate Parole Compact Administrator for Texas is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the office is abolished and this Article expires September 1, 1999 [1987].

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SECTION 2. Section 6(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The court having jurisdiction of the case shall determine the terms and conditions of probation and may, at any time, during the period of probation alter or modify the conditions; provided, however, that the clerk of the court shall furnish a copy of such terms and conditions to the probationer, and shall note the date of delivery of such copy on the docket. Terms and conditions of probation may include, but shall not be limited to, the conditions that the probationer shall:

- (1) Commit no offense against the laws of this State or of any other State or of the United States;
- (2) Avoid injurious or vicious habits;
- (3) Avoid persons or places of disreputable or harmful character;
- (4) Report to the probation officer as directed by the judge or probation officer and obey all rules and regulations of the probation department;
- (5) Permit the probation officer to visit him at his home or elsewhere;
- (6) Work faithfully at suitable employment as far as possible;
- (7) Remain within a specified place;
- (8) Pay his fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums, and make restitution or reparation in any sum that the court shall determine;
- (9) Support his dependents;
- (10) Participate, for a time specified by the court and subject to the same conditions imposed on community-service probationers by Sections 10A(c), (d), (g), and (h) of this article, in any community-based program, including a community-service work program designated by the court;
- (11) Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending him in the case, if counsel was appointed, or if he was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;
- (12) Remain under custodial supervision in a community-based facility, obey all rules and regulations of such facility, and pay a percentage of his income to the facility for room and board;
- (13) Pay a percentage of his income to his dependents for their support while under custodial suspension in a community-based facility;
- (14) Pay a percentage of his income to the victim of the offense, if any, to compensate the victim for any property damage or medical expenses sustained by the victim as a direct result of the commission of the offense;
- (15) Attend psychological counseling sessions at the direction of the probation officer and at the probationer's own expense, if the probationer was sentenced for an offense under Section 21.11, 22.011, 22.021, or 22.04, Penal Code;
- (16) Participate in an intensive probation program described by Section 3.11, Article 42.121 of this code, at the direction of the court or the probation officer;
- (17) Submit to testing for controlled substances; ~~and~~
- (18) Attend counseling sessions for substance abusers, if the person was sentenced for an offense involving controlled substances or the court determines that the defendant's use of controlled substances was connected to the commission of the offense; *and*
- (19) *Participate in a program at the direction of the probation officer that teaches functionally illiterate persons to read.*

SECTION 3. Section 6(b), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

- (b) If the court grants probation to a defendant and requires the defendant to serve a probationary term in a *community rehabilitation* ~~[restitution]~~ center, the court *may*

~~[shall]~~ require as a condition of probation that the defendant secure employment and *shall require as a condition of probation that the defendant obey all rules and regulations of the center.*

SECTION 4. Section 6, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) *A court may not order a probationer to make any payments as a term and condition of probation, except for fines, court costs, restitution of the victim, and other terms and conditions expressly authorized by statute.*

SECTION 5. Subsection (a), Section 6a, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) *Except as otherwise provided by this subsection, a [A] court granting probation shall [may] fix a fee of not less than \$25 and not more than [not exceeding] \$40 per month to be paid to the court by the probationer during the probationary period. The court may make payment of the fee a condition of granting or continuing the probation. The court may waive or reduce the fee or suspend a monthly payment of the fee if it determines that payment of the fee would cause the probationer a significant financial hardship.*

SECTION 6. Section 6e, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

Sec. 6e. (a) If a judge *places [sentences] a defendant on probation under any provision of this article as an alternative to [a term of] imprisonment in the Texas Department of Corrections [and the defendant is eligible for probation], the judge may [suspend imposition of the sentence of imprisonment and] require as a condition of probation, in addition to the conditions imposed under Section 6 of this article, that the defendant serve a term [an alternate probationary sentence] of not less than three [six] months or more than 12 months in a community rehabilitation [restitution] center if:*

- (1) the district is served by a *community rehabilitation [restitution] center;*
- (2) the defendant is not sentenced for a felony offense under Title 5, Penal Code; *and*
- (3) *the trier of facts determines that the defendant did not cause [before sentencing, the defendant, in writing, requests of the court special issues as to whether the defendant:*

~~[(A) caused] the bodily injury, serious bodily injury, or death of another as a result of the commission of the offense[;] or use~~

~~[(B) used] a deadly weapon during the commission of or flight from the offense[;~~

~~[(4) the trier of facts answers both issues submitted under Subdivision (3) of this subsection in the negative; and~~

~~[(5) the trier of facts determines that the defendant is employable].~~

(b) If a jury recommends that an eligible defendant serve an alternate term in a *community rehabilitation [restitution] center, the judge shall follow the jury's recommendation.*

(c) A probationer granted probation under this section may not earn good conduct credit for time spent in a *community rehabilitation [restitution] center* or apply time spent in the center toward completion of a sentence in the Texas Department of Corrections if the probation is revoked.

(d) No later than *three [six] months* after the date on which a defendant is granted probation under this section *and at least once during every three months after that date that the probationer is in a community rehabilitation center, the community rehabilitation [restitution] center director shall file with the chief adult probation officer or the probation department director a copy of an evaluation made by the director of the probationer's behavior and attitude at the center. The officer or director shall examine the evaluation, make written comments on the evaluation that he considers relevant, and file the evaluation and comments with the judge who granted probation to the probationer. If the evaluation indicates that the probationer has made significant progress toward compliance with court-ordered conditions of probation and payment of restitution, the*

court may release the probationer from the *community rehabilitation* [restitution] center. The probationer shall serve the remainder of his probation under any terms and conditions the court imposes under this article. The court shall require the probation department to place the probationer under intensive supervision during the first two months after his release.

(e) No later than nine months after the date on which a defendant is granted probation under this section, the *community rehabilitation* [restitution] center director shall file with the chief adult probation officer or the probation department director a copy of an evaluation made by the director of the probationer's behavior and attitude at the center. The officer or director shall examine the evaluation, make written comments on the evaluation that he considers relevant, and file the evaluation and comments with the judge who granted probation to the defendant. If the report indicates that the probationer has made significant progress toward court-ordered conditions of probation and payment of restitution, the court shall modify its sentence and release the probationer in the same manner as provided by Subsection (d) of this section. If the report indicates that the probationer would benefit from continued participation in the *community rehabilitation* [restitution] center program, the court may order the probationer to remain at the *community rehabilitation* [restitution] center for a period determined by the court. If the report indicates that the probationer has not made significant progress toward rehabilitation, the court may revoke probation and order the prisoner to the term of imprisonment specified in the probationer's sentence.

(f) A *community rehabilitation* [restitution] center director shall attempt to secure employment for each probationer required to serve a probationary term in a *community rehabilitation* [restitution] center under this article. The director shall also attempt to place each probationer as a worker in a community-service project of a type described in Section 10A(g) of this article, either during off-work hours if the probationer is employed or during any time if the probationer is unable to find employment.

(g) The employer of a probationer participating in a program under this section shall deliver the probationer's salary to the *community rehabilitation* [restitution] center director. The director shall deposit the salary into a fund to be given to the probationer on his release after deducting:

- (1) the cost to the center for the probationer's food, housing, and supervision;
- (2) necessary travel expense to and from work and community-service projects and other incidental expenses of the probationer;
- (3) support of the probationer's dependents; and
- (4) restitution to the victims of an offense committed by the probationer.

(h) If a *community rehabilitation* [restitution] center director is unable to find employment for a probationer, the director *may* [shall] transfer the probationer to the supervision of the director of another *community rehabilitation* [restitution] center who agrees to accept the probationer as a participant in the center's program.

~~(i) [If a restitution center director determines that the probationer is knowingly or intentionally failing to seek employment, the director shall request the court having jurisdiction of the case to revoke the probationer's probation and transfer the probationer to the custody of the Texas Department of Corrections.]~~

~~[(j)] A *community rehabilitation* [restitution] center director may grant a short-term furlough to a probationer and may grant an emergency furlough to a probationer for the purpose of obtaining medical treatment or diagnosis or to attend funerals or visit critically ill relatives. [A furlough for purposes other than medical purposes may not exceed 24 hours in length.]~~

~~(j) [(k)]~~ A probationer participating in a program under this article shall be confined in the *community rehabilitation* [restitution] center at all times except for:

- (1) time spent at work and traveling to and from work;
- (2) time spent attending and traveling to and from an education or rehabilitation program approved by the *community rehabilitation* [restitution] center director;
- (3) time spent attending and traveling to and from a community-service project; and

(4) time spent on *short-term or emergency furlough*.

(k) ~~(4)~~ Before sentencing a defendant to an alternate probationary sentence under this section, the court shall consider whether the defendant is a proper subject for probation authorized under Section 3e of this article.

SECTION 7. Article 42.12, Code of Criminal Procedure, is amended by adding Section 6g to read as follows:

Sec. 6g. (a) If a judge sentences a defendant to a term of imprisonment in the Texas Department of Corrections, the defendant is eligible for probation, and the district is served by a district probation office that has an electronic monitoring program approved by the Texas Adult Probation Commission, the judge may suspend imposition of the sentence of imprisonment and require as a condition of probation, in addition to the conditions imposed under Section 6 of this article, that the defendant submit to electronic monitoring.

(b) If at any time after a probationer is placed on probation under this section the court determines the probationer has violated a condition of probation under this section or any other section of this article, the court may revoke probation and order the probationer to the term of imprisonment specified in the probationer's sentence.

(c) The court may, on a determination that the probationer has made significant progress toward compliance with court-ordered conditions of probation, release the probationer from the electronic monitoring program. The probationer shall serve the remainder of his probation under any terms and conditions the court imposes under this article.

SECTION 8. Section 8(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) At any time during the period of probation the court may issue a warrant for violation of any of the conditions of the probation and cause the defendant to be arrested. Any probation officer, police officer or other officer with power of arrest may arrest such defendant without a warrant upon the order of the judge of such court to be noted on the docket of the court. A probationer so arrested may be detained in the county jail or other appropriate place of detention until he can be taken before the court. Such officer shall forthwith report such arrest and detention to such court. If the defendant has not been released on bail, on motion by the defendant the court shall cause the defendant to be brought before it for a hearing within 20 days of filing of said motion, and after a hearing without a jury, may either continue, modify, or revoke the probation. *If the court decides to continue or modify the probation of a felony defendant after determining that the defendant violated administrative provisions of probation or committed a misdemeanor offense while on probation, the court may order that the defendant be confined in the county jail for a period not to exceed 30 days.* In a felony case, the state may amend the motion to revoke probation any time up to seven days before the date of the revocation hearing, after which time the motion may not be amended except for good cause shown, and in no event may the state amend the motion after the commencement of taking evidence at the hearing. The court may continue the hearing for good cause shown by either the defendant or the state. If probation is revoked, the court may proceed to dispose of the case as if there had been no probation, or if it determines that the best interests of society and the probationer would be served by a shorter term of imprisonment, reduce the term of imprisonment originally assessed to any term of imprisonment not less than the minimum prescribed for the offense of which the probationer was convicted. *Instead of revoking probation [If probation is revoked] in a felony case, the court may order [sentence] a probationer to serve a term in a community rehabilitation [restitution] center if the probationer would have been eligible for sentencing to the center on conviction of the offense for which the probationer received probation [and the probationer had not been placed under intensive supervision probation prior to revocation because of failure to meet court-imposed conditions].*

SECTION 9. Section 10, Article 42.12, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), (l), and (p) and adding Subsection (q) to read as follows:

(a) For the purpose of providing adequate probation services, the district judge or district judges trying criminal cases in each judicial district in the state shall establish a probation office and employ, in accordance with standards set by the commission, district personnel as may be necessary to conduct presentence investigations, supervise and rehabilitate probationers, and enforce the terms and conditions of misdemeanor and felony probation. The district judge or judges may authorize district personnel to operate programs for the supervision and rehabilitation of persons in pretrial diversion programs. Persons in pretrial diversion programs may be supervised for a period not to exceed 12 months and may be assessed a supervisory fee or a program fee, or both, provided the maximum fees do not exceed a total of \$200.00. If two or more judicial districts serve a county, or a district has more than one county, one district probation department shall serve all courts and counties in the districts. However, the adult probation commission may adopt rules to allow more than one probation department in a judicial district with more than one county if providing more than one probation department will promote administrative convenience or economy or improve probation services. The district judge or judges may direct the probation department to establish and maintain a *community rehabilitation* ~~[restitution]~~ center under this subsection. The district judge or judges may enter into an agreement with the judge or judges of other districts for the purpose of establishing a regional *community rehabilitation* ~~[restitution]~~ center. If a *community rehabilitation* ~~[restitution]~~ center is established, the district judge or judges shall appoint a community advisory council to advise the probation department in its establishment and maintenance of the center.

(b) Where more than one probation officer is required, the judge or judges shall appoint a chief adult probation officer or director, who, with their approval, shall appoint a sufficient number of assistants and other employees to carry on the professional, clerical, and other work of the court. The chief adult probation officer or director shall also appoint the director of a *community rehabilitation* ~~[restitution]~~ center established in the district. The appointment is subject to the approval of the district judge or judges.

(d) The adult probation commission may adopt rules under which a judicial district may employ an adult probation officer who is not qualified under Subdivision (B), Subsection (c) of this section if the district judge, district judges, chief adult probation officer, or director tried but failed to employ a probation officer qualified under Subsection (c) of this section. *The adult probation commission shall adopt standards to ensure that when a judicial district appoints a chief adult probation officer or director, the person appointed shall be the most qualified applicant for the position. Each judicial district shall make a good faith effort to comply with standards adopted under this subsection.*

(l) The county or counties comprising a judicial district or geographical area served by a district probation department shall provide physical facilities, equipment, and utilities for an effective and professional adult probation and adult community-based correctional service. *The Texas Adult Probation Commission shall monitor the support a county provides under this subsection and determine whether the support meets standards for minimum support established by the commission. If the commission determines that a county's support is not sufficient, the commission may impose a sanction authorized by Section 4.06 of Article 42.121 of this code.*

(p) The district judge or judges may authorize expenditures of funds provided by the Texas Adult Probation Commission to the department for the purposes of providing facilities, equipment, and utilities for community-based correctional programs if:

(1) the judge or judges direct the probation department to establish community-based correctional programs requiring facilities other than a probation office;

(2) the adult probation commission provides state funds for the purpose of establishing or improving *community rehabilitation* ~~[residential centers, restitution]~~ centers[,] and other community-based correctional programs other than jails or prisons; and

(3) the county or counties certify to the judge or judges that space in county-owned buildings is not available and county funds are not available to provide facilities, equipment, and utilities for the establishment of community-based correctional programs.

(q) Judicial districts are authorized to contract with the Board of Pardons and Paroles for the supervision of persons on probation by a parole officer, provided that the contracts provide the districts with cost savings. Judicial districts entering into contracts under this subsection shall report annually payments to the commission, and the commission shall forward the reports to the governor and the legislature.

SECTION 10. Section 2.02, Article 42.121, Code of Criminal Procedure, is amended to read as follows:

Sec. 2.02. MEMBERSHIP. *(a) The commission shall consist of three judges of the district courts and one judge of the statutory county courts trying criminal cases of Texas and two members of the general public [citizens of Texas who are not employed in the criminal justice system] to be appointed by the Chief Justice of the Supreme Court of Texas and three judges of the district courts and two judges of the statutory county courts trying criminal cases of Texas and one member of the general public [citizen of Texas not employed in the criminal justice system] to be appointed by the presiding judge of the Texas Court of Criminal Appeals.*

(b) A person is not eligible for appointment as a public member if the person or the person's spouse:

- (1) is certified as an officer by the commission;*
- (2) is employed by or participates in the management of a business entity or other organization receiving funds from the commission;*
- (3) owns, or controls directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the commission; or*
- (4) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.*

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the commission, may not serve as a member of the commission or act as the general counsel to the commission.

(d) Appointments to the commission shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

(e) It is ground for removal from the commission if a member:

- (1) does not have at the time of appointment the qualifications required by Subsection (b) of this section for appointment to the commission;*
- (2) does not maintain during the member's service on the commission the qualifications required by Subsection (b) of this section for appointment to the commission;*
- (3) violates a prohibition established by Subsection (c) of this section;*
- (4) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or*
- (5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the commission.*

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

(g) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the commission of the ground. The chairman of the commission shall then notify the appropriate appointing authority that a potential ground for removal exists.

SECTION 11. Section 2.03, Article 42.121, Code of Criminal Procedure, is amended to read as follows:

Sec. 2.03. TERMS OF OFFICE. *(a) Members of the commission serve staggered six-year terms [The first members appointed to the Board shall serve terms of two, four,*

~~and six years respectively, and until their successors are appointed. Thereafter each member shall serve for six years].~~

~~(b) [The appointing authority shall draw lots to determine which members serve two, four, and six-year terms.~~

~~[(e)] If any member of the commission resigns or expires, the appointing authority for his respective commission position shall appoint another member to serve the remainder of the unexpired term.~~

~~[(d) The first judges of county courts at law trying criminal cases appointed to the Board shall serve terms of two, four, and six years respectively, and until their successors are appointed. The appointing authority shall determine which members serve two, four, and six-year terms according to the method described in Subsection (b) of this section.]~~

SECTION 12. Section 2.06, Article 42.121, Code of Criminal Procedure, is amended to read as follows:

Sec. 2.06. MEETINGS. (a) ~~[The Chief Justice of the Supreme Court of Texas shall call the first meeting of the commission in September, 1977.~~

~~[(b)] The commission shall hold regular quarterly meetings each year on dates fixed by the commission and such special meetings as the commission determines necessary. The commission shall make rules providing for the regulation of its proceedings and for the holding of special meetings.~~

~~(b) [(e)] A majority of the commission shall constitute a quorum.~~

~~(c) [(d)] The commission shall keep a public record of its decisions at its general office.~~

SECTION 13. Section 2.08, Article 42.121, Code of Criminal Procedure, is amended to read as follows:

Sec. 2.08. EXPIRATION. The Texas Adult Probation Commission is subject to the Texas Sunset Act (*Chapter 325, Government Code*) ~~[(Article 5429k, Vernon's Texas Civil Statutes)].~~ Unless continued in existence as provided by that Act, the commission is abolished and this article expires September 1, 1999 ~~[1987].~~

SECTION 14. Subchapter B, Article 42.121, Code of Criminal Procedure, is amended by adding Section 2.09 to read as follows:

Sec. 2.09. PROCEDURES. (a) *The executive director shall develop an intra-agency career ladder program, one part of which shall require the intra-agency posting, concurrently with any public posting, of all nonentry level positions.*

(b) The executive director shall develop a system under which the job performance of employees is evaluated annually. All merit pay for commission employees must be based on the system established under this section.

(c) The state auditor shall audit the financial transactions of the commission at least once during each biennium.

(d) The commission shall prepare information of public interest describing the functions of the commission and describing the procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

(e) The commission shall establish methods by which service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission.

(f) The commission shall keep an information file about each complaint filed with the commission that relates to a probation department funded by the commission.

(g) If a written complaint is filed with the commission that relates to services provided by a probation department funded by the commission, the commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the complainant and the subject of the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(h) If the General Appropriations Act does not specify the amount of the fee, the commission may establish reasonable and necessary fees for the administration of

this article. The commission may not maintain unnecessary fund balances. Fee amounts shall be set in accordance with this prohibition.

(i) The executive director shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity by which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement shall include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the commission's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underutilization in the commission work force of all persons of whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address areas of significant underutilization in the commission work force of all persons of whom federal or state guidelines encourage a more equitable balance.

(j) The policy statements shall be filed with the governor's office, cover a one-year period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature.

(k) The commission shall inform its members and employees as often as is necessary of:

(1) the qualifications for office or employment prescribed by this article; and

(2) their responsibilities under applicable law relating to standards of conduct for state officers or employees.

(l) The commission shall adopt policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

(m) The commission shall adopt policies that clearly define the respective responsibilities of the governing body of the commission and the staff of the commission.

(n) No center may be located within 1,000 feet of a public or private school after the effective date of this section.

SECTION 15. Section 3.01, Article 42.121, Code of Criminal Procedure, is amended to read as follows:

Sec. 3.01. STANDARDS FOR PROBATION OFFICES, PROBATION OFFICERS, AND COMMUNITY-BASED CORRECTIONAL PROGRAMS AND FACILITIES. (a) The commission shall promulgate reasonable rules:

(1) establishing minimum standards for case loads, programs, facilities, and equipment, and other aspects of the operation of a probation office necessary for the provision of adequate and effective probation services;

(2) establishing a code of ethics for probation officers and providing for the enforcement thereof; and

(3) relating to the administration of programs and facilities funded by the commission.

(b) If the Advisory Committee on Probation Department Management established under Subchapter E of this article does not present guidelines on probation department management to the executive director on or before September 1, 1988, the commission shall adopt guidelines and standards for the organization, management, and operation of local adult probation departments.

(c) The commission shall promulgate reasonable rules establishing a requirement that probation offices cooperate with schools and volunteer organizations to provide tutoring to teach reading to functionally illiterate probationers.

SECTION 16. Section 3.06, Article 42.121, Code of Criminal Procedure, is amended to read as follows:

Sec. 3.06. STUDIES. The commission may conduct or participate in studies of corrections methods and systems *and shall conduct studies in conjunction with the Criminal Justice Center at Sam Houston State University to determine the effectiveness of probation programs funded by the commission. The studies shall include any necessary recommendations to improve the effectiveness of probation programs. The commission shall prepare drafts of legislation to implement any recommendations that require statutory change.*

SECTION 17. Section 3.07, Article 42.121, Code of Criminal Procedure, is amended to read as follows:

Sec. 3.07. ANNUAL REPORT. (a) The commission shall make a report to the governor and to the legislature each year covering its operations and the condition of probation services in Texas during the previous year and making whatever recommendations it considers desirable.

(b) *The commission shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The form of the annual report and the reporting time are as provided in the General Appropriations Act.*

SECTION 18. Section 3.10, Article 42.121, Code of Criminal Procedure, is amended to read as follows:

Sec. 3.10. *COMMUNITY REHABILITATION* ~~RESTITUTION~~ CENTERS. In order to establish and maintain *community rehabilitation* ~~restitution~~ centers, as authorized by Section 10(a), Article 42.12, of this code, the commission may:

- (1) develop standards for the operation of *community rehabilitation* ~~restitution~~ centers;
- (2) fund department-managed *community rehabilitation* ~~restitution~~ centers if local contractors are not available or do not meet the standards established by the commission;
- (3) consider funding for other management options, such as contracting, for management of *community rehabilitation* ~~restitution~~ centers;
- (4) provide funds to probation departments for the renovation of leased or donated buildings for use as *community rehabilitation* ~~restitution~~ centers;
- (5) allow probation departments to accept and use buildings provided by units of local government for use as *community rehabilitation* ~~restitution~~ centers;
- (6) provide funds to probation departments to lease buildings, land, or other real property for use as *community rehabilitation* ~~restitution~~ centers, lease or purchase equipment necessary for the operation of centers, and pay other costs necessary for the management and operation of centers;
- (7) require that all *community rehabilitation* ~~restitution~~ centers be secure and be in compliance with state and local safety laws;
- (8) develop standards for disciplinary rules to be imposed on residents of *community rehabilitation* ~~restitution~~ centers;
- (9) require probation departments to provide data requested by the commission; and
- (10) develop standards for the granting of *short term and* emergency furloughs to probationers.

SECTION 19. Subchapter C, Article 42.121, Code of Criminal Procedure, is amended by adding Section 3.12 to read as follows:

Sec. 3.12. TRAINING. *The commission may provide preservice, in-service, and educational training and technical assistance to probation offices to promote compliance with the standards under this article and to assist probation offices in improving the operation of probation services.*

SECTION 20. Subchapter C, Article 42.121, Code of Criminal Procedure, is amended by adding Section 3.13 to read as follows:

Sec. 3.13. COMMITTEES. (a) The commission may appoint committees to assist the commission in accomplishing the purposes of this article.

(b) The commission shall promulgate rules specifying the selection process for appointment to committees and the purposes, powers, duties, procedures, and reporting requirements relating to committees.

SECTION 21. Subchapter C, Article 42.121, Code of Criminal Procedure, is amended by adding Section 3.14 to read as follows:

Sec. 3.14. OFFICER CERTIFICATION. (a) The commission shall establish a probation officer certification program. The program must include coursework leading to an examination prepared by the commission. The examination must test candidates on knowledge required in the proper performance of duties by probation officers.

(b) A probation office may not continue to employ a probation officer unless the officer completes the coursework and examination required by this section within one year of the date on which the officer began employment with the office. Once a probation officer has completed the coursework and passed the examination, however, the officer is not required to repeat the coursework and examination as a condition of employment with another probation office.

(c) Not later than the 30th day after the date on which a certification examination is administered under this article, the commission shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the commission shall notify examinees of the results of the examination not later than the 14th day after the date on which the commission receives the results from the testing service. If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the commission shall notify the examinee of the reason for the delay before that date.

(d) If requested in writing by a person who fails a certification examination administered under this article, the commission shall furnish the person with an analysis of the person's performance on the examination.

(e) The commission may waive any certification requirement, except a fee requirement, for an applicant with a valid certificate from another state that has certification requirements that are substantially equivalent to those of this state.

(f) The commission shall revoke or suspend a certification or reprimand a certified officer for a violation of this article or a rule of the commission.

(g) If the commission proposes to suspend or revoke a person's certification, the person is entitled to a hearing before the commission or a hearings officer appointed by the commission. The commission shall prescribe procedures by which decisions to suspend or revoke are made by or are appealable to the commission.

SECTION 22. Section 4.06, Article 42.121, Code of Criminal Procedure, is amended to read as follows:

Sec. 4.06. REFUSAL OR SUSPENSION OF STATE-AID. (a) The commission shall take one or more of the following actions against a ~~[refuse or suspend payment of state aid to any]~~ district that fails to comply substantially with the commission standards:

- (1) a reduction, refusal, or suspension of payment of state-aid to the district; or*
- (2) an imposition of budget control over the district.*

(b) The commission shall provide for notice and a hearing in cases in which it proposes to take an action authorized by this section. The commission, by rule, shall define what conduct constitutes substantial noncompliance with commission standards and shall establish the procedures to be used in imposing a sanction authorized by this section ~~[refuses or suspends state aid].~~

SECTION 23. Article 42.121, Code of Criminal Procedure, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. ADVISORY COMMITTEE

Sec. 5.01. ADVISORY COMMITTEE CREATION. The Advisory Committee on Probation Department Management to the Texas Adult Probation Commission is created.

Sec. 5.02. MEMBERSHIP. The advisory committee shall consist of one probation officer from each administrative judicial region in the state, appointed by the presiding judge in the region, and three members appointed by the Texas Adult Probation Commission. The members appointed by the commission shall be citizens of the state with knowledge of the criminal justice system. The presiding judges of the administrative judicial regions shall make their appointments after consultation with the chief probation officers in their respective administrative judicial regions.

Sec. 5.03. TERMS OF OFFICE. (a) Members of the advisory committee serve until the expiration of the committee.

(b) If a vacancy occurs on the advisory committee and the member:

(1) was an appointee of the commission, the commission shall appoint another person to serve the remainder of the unexpired term; or

(2) was appointed by the presiding judge of an administrative judicial region, the presiding judge shall appoint another person to serve the remainder of the unexpired term.

Sec. 5.04. CHAIRMAN. (a) The members of the advisory committee shall elect a chairman from among its members.

(b) The chairman of the advisory committee shall serve until the expiration of the committee.

Sec. 5.05. EXPENSES. (a) Members of the advisory committee are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their official duties as advisory committee members.

(b) Necessary costs for the operation of the committee shall be paid from funds appropriated to the commission for state-aid.

Sec. 5.06. MEETINGS. (a) The advisory committee shall hold regular quarterly meetings each year on dates fixed by the committee and such special meetings as the committee determines necessary.

(b) A majority of the advisory committee shall constitute a quorum.

(c) The advisory committee shall keep a public record of its decisions at the general office of the commission.

Sec. 5.07. FUNCTION. (a) The purpose of the advisory committee is to develop and present to the commission guidelines for the organization, management, and operation of local probation departments. A copy of the guidelines developed and presented to the commission shall be sent to the governor, legislature, and Sunset Advisory Commission.

(b) The commission shall use the guidelines as part of its evaluation process of probation departments.

(c) The commission may adopt as standards any guidelines developed by the committee.

(d) The guidelines developed by the committee shall take into account operational differences between departments due to size of probationer populations or size of geographical area to be served by the departments.

(e) After initial development of the guidelines, the committee shall continue to advise the commission on the implementation of the guidelines and any standards adopted by the commission.

(f) The advisory committee may request that items of importance to the committee be placed on the meeting agenda of the commission.

(g) This subchapter and the advisory committee it authorizes expire September 1, 1989.

SECTION 24. Article 42.13, Code of Criminal Procedure, is repealed.

SECTION 25. (a) Except as otherwise provided by this subsection, the changes in law made by Section 10 of this Act adding Sections 2.02(b) and (c) to Article 42.121, Code of Criminal Procedure, relating to the qualifications of commission members, do not apply to members of the commission in office on the effective date of this Act. If on or after the effective date of this Act, a member is appointed to a new term on the commission, the changes in law apply to that member.

(b) The amendment to Section 2.03, Article 42.121, Code of Criminal Procedure, made by Section 11 of this Act, does not affect the terms of judges of county courts at law receiving appointments of two or four years as the first judges of county courts appointed to the commission.

SECTION 26. The requirement that a probation officer complete coursework and pass an examination as a condition of certification under Section 3.14, Article 42.121, Code of Criminal Procedure, as added by Section 21 of this Act, does not apply to a probation officer employed by any probation department in this state on or before the effective date of this Act. The commission shall adopt rules establishing a certification program for officers described by this section.

SECTION 27. (a) The executive director of the Texas Adult Probation Commission shall call the first meeting of the advisory committee to the Texas Adult Probation Commission created by Section 5.01, Article 42.121, Code of Criminal Procedure, as added by Section 23 of this Act, on or before October 1, 1987.

(b) If the advisory committee fails to file a set of guidelines with the executive director of the commission on or before September 1, 1988, the advisory committee is abolished. If the advisory committee files a set of guidelines on or before that date, the advisory committee shall continue in existence, until September 1, 1989, at which time the committee is abolished.

SECTION 28. This Act takes effect September 1, 1987.

SECTION 29. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 15, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 83 on May 27, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 23, 1987, by a viva-voce vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.