

# TEXAS SESSION LAWS 1987

## GENERAL AND SPECIAL

### SEVENTIETH LEGISLATURE, REGULAR SESSION

#### CHAPTER 1

#### S.B. No. 215

##### AN ACT

relating to inmate population in the Texas Department of Corrections and to sentencing and administrative and information provisions that affect that population; providing for appropriations.

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

SECTION 1. Article 6184o, Revised Statutes, as amended, is amended to read as follows:

Art. 6184o. TEXAS PRISON MANAGEMENT ACT

Sec. 1. (a) In this article:

- (1) "Board" means the Board of Pardons and Paroles.
- (2) "Capacity" means the greatest density of prison inmates in relation to space available for inmate housing in the Texas Department of Corrections that is in compliance with standards for prison population established by the Texas Board of Corrections.
- (3) "Department" means the Texas Department of Corrections.
- (4) "Director" means the director of the Texas Department of Corrections.
- (5) "*Intensive supervision parole*" means a parole supervision program established by the board under Section 30, Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985.
- (6) "*Objective parole criteria*" means criminal and social history variables that have been shown statistically to be reliable indicators of the probability of favorable outcome on release.
- (7) "*Eligible inmate*" means an inmate who is made eligible by Section 3 of this article to receive credits of administrative good conduct time, to have his parole eligibility and review date advanced, and to be considered for early release to intensive supervision parole.

(b) In calculations of space available for inmate housing made before January 1, 1985, temporary housing may be considered, except that for purposes of the calculations, space available in temporary housing may not exceed the space available in temporary housing that existed on January 1, 1983. In calculations made on and after January 1, 1985, temporary housing may not be considered for purposes of the calculations.

Sec. 2. (a) If the inmate population of the department reaches 94 percent or more of capacity, the director shall immediately notify the governor in writing of that fact. Thereafter, until the inmate population is reduced to less than 94 percent of capacity, the director shall make a weekly written report to the governor stating the extent to which the inmate population is less than, equal to, or in excess of capacity.

(b) If the inmate population of the department reaches ~~[and remains at]~~ 95 percent ~~[or more]~~ of capacity ~~[for five consecutive days or reaches 95 percent of capacity for 20 days in a 30-day period]~~, the director shall immediately notify the governor and the attorney general in writing of that fact. *The attorney general shall certify to the governor in writing as to whether the department has reached 95 percent of capacity. If the attorney general's certification is affirmative, the governor shall immediately certify that an emergency overcrowding situation exists and shall order the director to credit not more than 90 [30] days of administrative good conduct time to all eligible inmates.*

(c) *If, after the credit of administrative good conduct time, the overcrowding crisis that produced the emergency certification has not been resolved as determined by the attorney general and certified by the attorney general to the governor, the governor shall take one or more of the following actions:*

(1) *authorize the director to make additional identical grants of administrative good conduct time to all eligible inmates in amounts determined by the governor to be appropriate, not to exceed 120 days in any calendar month;*

(2) *authorize the board to advance by identical numbers of days the parole eligibility and review date of eligible inmates in amounts determined by the governor to be appropriate; or*

(3) *direct the board to proceed in the manner described by Subsection (d) of this section.*

(d) *If the board receives a directive from the governor under Subdivision (3) of Subsection (c) of this section and the board determines that the emergency overcrowding situation will not be resolved by releases under Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, and actions taken under Subsections (b) and (c) of this section, the board shall immediately begin to review and consider for early release to intensive supervision parole all eligible inmates who would not at the time of review otherwise be eligible for parole. The governor may impose additional criteria for determining which inmates are eligible for release under this subsection. The board may not release an inmate under this subsection if the board determines that the release of the inmate will increase the likelihood of harm to the public, according to objective parole criteria.*

(e) *If the board releases inmates under this section, the board shall impose conditions and limitations as appropriate on the parolees and to the extent practicable shall maximize placements in residential treatment centers. The board shall otherwise place all parolees released under this section under intensive supervision parole, whether or not the parolees are of a type that would ordinarily be required to submit to intensive supervision parole.*

(f) *Not later than the 20th day before the date on which the board proposes to release inmates under Subsection (d) of this section, the board shall provide the governor with a list of the names of the inmates scheduled for release and all records or other information relevant to its determination of eligibility for each inmate. Not later than the 20th day after the date on which the governor receives the list, the governor may veto the release of any inmate scheduled for release if the inmate is eligible for release only because of the provisions of Subsection (d) of this section. The board may release an inmate under the provisions of Subsection (d) of this section on or after the earlier of the following:*

(1) *the date on which the board receives the approval of the governor to release the inmate; or*

(2) *the day after the date on which the authority of the governor to veto the release of the inmate expires.*

(g) *The governor's authority to take the actions listed in Subsection (c) of this section continues until the attorney general certifies in writing to the governor that the overcrowding crisis that produced the emergency certification under Subsection (b) of this section has been resolved. When the governor receives this certification from the attorney general under this subsection, the governor shall immediately*

(b) If the inmate population of the department reaches ~~[and remains at]~~ 95 percent ~~[or more]~~ of capacity ~~[for five consecutive days or reaches 95 percent of capacity for 20 days in a 30-day period]~~, the director shall immediately notify the governor and the attorney general in writing of that fact. *The attorney general shall certify to the governor in writing as to whether the department has reached 95 percent of capacity. If the attorney general's certification is affirmative, the governor shall immediately certify that an emergency overcrowding situation exists and shall order the director to credit not more than 90 [30] days of administrative good conduct time to all eligible inmates.*

(c) *If, after the credit of administrative good conduct time, the overcrowding crisis that produced the emergency certification has not been resolved as determined by the attorney general and certified by the attorney general to the governor, the governor shall take one or more of the following actions:*

(1) *authorize the director to make additional identical grants of administrative good conduct time to all eligible inmates in amounts determined by the governor to be appropriate, not to exceed 120 days in any calendar month;*

(2) *authorize the board to advance by identical numbers of days the parole eligibility and review date of eligible inmates in amounts determined by the governor to be appropriate; or*

(3) *direct the board to proceed in the manner described by Subsection (d) of this section.*

(d) *If the board receives a directive from the governor under Subdivision (3) of Subsection (c) of this section and the board determines that the emergency overcrowding situation will not be resolved by releases under Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, and actions taken under Subsections (b) and (c) of this section, the board shall immediately begin to review and consider for early release to intensive supervision parole all eligible inmates who would not at the time of review otherwise be eligible for parole. The governor may impose additional criteria for determining which inmates are eligible for release under this subsection. The board may not release an inmate under this subsection if the board determines that the release of the inmate will increase the likelihood of harm to the public, according to objective parole criteria.*

(e) *If the board releases inmates under this section, the board shall impose conditions and limitations as appropriate on the parolees and to the extent practicable shall maximize placements in residential treatment centers. The board shall otherwise place all parolees released under this section under intensive supervision parole, whether or not the parolees are of a type that would ordinarily be required to submit to intensive supervision parole.*

(f) *Not later than the 20th day before the date on which the board proposes to release inmates under Subsection (d) of this section, the board shall provide the governor with a list of the names of the inmates scheduled for release and all records or other information relevant to its determination of eligibility for each inmate. Not later than the 20th day after the date on which the governor receives the list, the governor may veto the release of any inmate scheduled for release if the inmate is eligible for release only because of the provisions of Subsection (d) of this section. The board may release an inmate under the provisions of Subsection (d) of this section on or after the earlier of the following:*

(1) *the date on which the board receives the approval of the governor to release the inmate; or*

(2) *the day after the date on which the authority of the governor to veto the release of the inmate expires.*

(g) *The governor's authority to take the actions listed in Subsection (c) of this section continues until the attorney general certifies in writing to the governor that the overcrowding crisis that produced the emergency certification under Subsection (b) of this section has been resolved. When the governor receives this certification from the attorney general under this subsection, the governor shall immediately*

*notify the board that the emergency overcrowding situation no longer exists. [any inmate who:*

~~[(1) is classified as a trusty or a Class I inmate by the department; and~~

~~[(2) is not serving a sentence for an offense listed in Subdivision (1) of Subsection (a) of Section 3g of Article 42.12, Code of Criminal Procedure, or whose judgment does not contain an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article.~~

~~[(c) No later than the 30th day after the day of receiving notice from the department that the inmate population of the department has reached and remained at 95 percent or more of capacity for a time period described by Subsection (b) of this section, the governor shall certify that an emergency overcrowding situation exists and shall notify the board of that fact if the governor determines that:~~

~~[(1) the department's computation of capacity is correct;~~

~~[(2) the department has taken all administrative actions consistent with applicable state statutes and rules adopted under those statutes to reduce the inmate population to less than 95 percent of capacity;~~

~~[(3) those administrative actions are not adequate to reduce the inmate population to less than 95 percent of capacity; and~~

~~[(4) no other means of reducing the inmate population to less than 95 percent of capacity are feasible.~~

~~[(d) If the board has been notified by the governor that an emergency overcrowding situation exists in the department, the board shall advance by 30 days the parole eligibility and review date of those inmates who are described by Subsection (b) of this section.~~

~~[(e) If 60 days after the governor has notified the board that an emergency overcrowding situation exists, the situation continues to exist, the board shall advance by an additional 30 days the parole eligibility and review date of those inmates described by Subsection (b) of this section.~~

~~[(f) If 120 days after the governor has notified the board that an emergency overcrowding situation exists the situation continues to exist, the governor shall order the director to make another award of good conduct time in the same manner as provided in Subsection (b) of this section. If at that time the governor determines that it is necessary, he may order the board to advance by an additional 30 days the parole review and eligibility date of those inmates who are described by Subsection (b) of this section.~~

~~[(g) If after the governor declares that an emergency overcrowding situation exists, inmate population is reduced to less than 95 percent of capacity, the governor shall immediately notify the board that the emergency situation no longer exists.]~~

~~(h) This article does not apply to an emergency overcrowding situation if the situation is the direct result of the destruction of prison facilities by a natural or man-made disaster.~~

~~(i) A prisoner released to parole under this section is subject to terms and conditions imposed on parolees released under Article 42.18 [42.12], Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985 [1965, as amended].~~

~~(j) Not later than the 10th day before the date on which the board proposes to release a prisoner under this section, the board shall give notice of the proposed release to the sheriff, the attorney representing the state, and the district judge of the county in which the defendant was convicted. If there was a change of venue in the case, the board shall also notify the sheriff, the attorney representing the state, and the district judge of the county in which the prosecution was originated.~~

*Sec. 3. (a) Except as provided by Subsection (b) of this section and subject to the conditions imposed by this article, an inmate is eligible under this article for credits of administrative good conduct time, to have his parole eligibility and review date advanced, and to be considered for release to intensive supervision parole if the inmate is classified as a state approved Trusty I, II, III, or IV, and:*

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- (1) is serving a sentence of 10 years or less;
- (2) does not have a history of or has not shown a pattern of violent or assaultive behavior in the department or prior to confinement; and
- (3) will not increase the likelihood of harm to the public if released, according to objective parole criteria as determined by the board.

(b) An inmate is not eligible under this article for credits of administrative good conduct time, to have his parole review and eligibility date advanced, and to be considered for release to intensive supervision parole if:

(1) the inmate is serving a sentence for an offense for which the judgment contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g, Article 42.12, Code of Criminal Procedure;

(2) the inmate is serving a sentence for an offense listed in one of the following sections of the Penal Code:

- (A) Section 19.02 (Murder);
- (B) Section 19.03 (Capital Murder);
- (C) Section 19.04 (Voluntary Manslaughter);
- (D) Section 20.03 (Kidnapping);
- (E) Section 20.04 (Aggravated Kidnapping);
- (F) Section 21.11 (Indecency with a Child);
- (G) Section 22.011 (Sexual Assault);
- (H) Section 22.021 (Aggravated Sexual Assault);
- (I) Section 22.03 (Deadly Assault on Law Enforcement or Corrections Officer or Court Participant);
- (J) Section 22.04 (Injury to a Child or an Elderly Individual);
- (K) Section 25.02 (Incest);
- (L) Section 25.06 (Sale or Purchase of a Child);
- (M) Section 25.06 (Solicitation of a Child);
- (N) Section 28.02 (Arson);
- (O) Section 29.02 (Robbery);
- (P) Section 29.03 (Aggravated Robbery);
- (Q) Section 30.02 (Burglary), if the offense is punished as a first degree felony under that section;
- (R) Section 43.04 (Aggravated Promotion of Prostitution);
- (S) Section 43.05 (Compelling Prostitution);
- (T) Section 43.24 (Sale, Distribution, or Display of Harmful Material to Minor);
- (U) Section 43.25 (Sexual Performance by a Child);
- (V) Section 46.11 (Deadly Weapon in Penal Institution);
- (W) Section 15.01 (Criminal Attempt), if the offense attempted is listed in this subsection;
- (X) Section 15.02 (Criminal Conspiracy), if the offense that is the subject of the conspiracy is listed in this subsection; or
- (Y) Section 15.03 (Criminal Solicitation), if the offense solicited is listed in this subsection; or

(3) the inmate is serving a sentence for an offense listed in one of the following sections of the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes):

- (A) Section 4.03(c), 4.031(c), or 4.032(c) (aggravated manufacture or delivery of a controlled substance);

(B) Section 4.04(c), 4.041(c), 4.042(c), or 4.043(c) (aggravated possession of a controlled substance);

(C) Section 4.05 (delivery of marihuana) if the offense is punished under Subsection (b)(5) of that section;

(D) Section 4.05(c) (aggravated delivery of marihuana);

(E) Section 4.051(c) (aggravated possession of marihuana).

*Sec. 4. The department shall submit a facilities expansion and improvement report to the governor and the Legislative Budget Board not less than once every 60 days. The report must describe all construction projects that will result in the addition or removal of beds from the system capacity, the projected completion dates for each project, and the number of beds that will be added to or removed from capacity on completion of the construction projects.*

*Sec. 5. It is the purpose of this article to allow the Texas Department of Corrections the flexibility to house inmates in appropriate settings and determine the proper amount of available housing. The flexibility given is to be exercised in a manner consistent with sound correctional practices, applicable federal law, and state laws and policies. This article does not create a right on the part of any inmate confined in the department to serve his sentence in a department whose population is below 95 percent of capacity, as determined by this article. This article does not grant to any inmate the right to be released or to be considered for release if the inmate population of the department reaches 95 percent of capacity as determined under this article. This article does not require a population level below 95 percent of capacity as determined by this article, but allows the executive branch various alternatives that can be used to appropriately balance population, consistent with the intent of this article, if that level of capacity is reached.*

SECTION 2. Subsection (g), Section 8, Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

(g) The board may adopt such other reasonable rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of prisoners for parole and mandatory supervision, the conduct of parole and mandatory supervision hearings, or conditions to be imposed upon parolees and persons released to mandatory supervision. *Unless specifically limited to a particular category of releasees, conditions imposed under this subsection apply both to inmates released under the provisions of this article and to inmates released under the provisions of Article 6184o, Revised Statutes. [Each person to be released on parole shall be furnished a written statement and contract setting forth in clear and intelligible language the conditions and rules of parole.]* The conditions shall include the making of restitution or reparation to the victim of the prisoner's crime, in an amount not greater than such restitution or reparation as established by the court and entered in the sentence of the court which sentenced the prisoner to his term of imprisonment, *and shall require reasonable progress toward that restitution. If the prisoner is released under the provisions of Article 6184o, Revised Statutes, the conditions shall, if the board considers it feasible, include a requirement that the prisoner work not less than 10 hours a week in a community service program. The conditions may include a requirement that the releasee submit to a program of supervision that is more intensive than the program required of most releasees. The program may consist of intensive supervision parole, specialized caseload supervision, surveillance parole, home confinement, electronic monitoring, or any other element required by the department. Each person to be released on parole shall be furnished a written statement and contract setting forth in clear and intelligible language the conditions and rules of parole.* Acceptance, signing, and execution of the contract by the inmate to be paroled shall be a precondition to release on parole. Persons released on mandatory supervision shall be furnished a written statement setting forth in clear and intelligible language the conditions and rules of mandatory supervision.

SECTION 3. Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended by adding Section 30 to read as follows:

*Sec. 30. The board shall establish a program to provide intensive supervision to inmates released under the provisions of Article 61840, Revised Statutes, and other inmates determined by the board to require intensive supervision. The program must provide the highest level of supervision provided by the board. The program must also provide extensive case planning on the part of parole officers, a high frequency of contact between officers and parolees, and a caseload for officers of not more than 40 parolees.*

SECTION 4. Subsection (a), Section 6, 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; ~~and~~
- (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.*

SECTION 5. Article 42.12, Code of Criminal Procedure, is amended by adding Section 6f to read as follows:

*Sec. 6f. (a) If a judge determines that a defendant whom the judge would otherwise sentence to the Texas Department of Corrections would benefit from intensive probation and the district is served by an intensive probation program described by Section 3.11, Article 42.121 of this code, the judge shall suspend imposition of the sentence and place the defendant on intensive probation.*

*(b) Except as otherwise provided by this subsection, a defendant may be placed on or removed from intensive probation only by order of the court. A court that places a defendant on intensive probation may authorize the probation officer supervising the probationer to modify the conditions of probation for the limited purpose of transferring the probationer to different programs within the intensive probation program.*

*(c) If a probation officer modifies the conditions of intensive probation, he shall deliver a copy of the modified conditions to the probationer and note the date of delivery of the copy in the probationer's file. If the probationer agrees to the modification in writing, the probation officer shall file a copy of the modified conditions with the district clerk and the conditions shall be enforced as modified. If the probationer does not agree to the modification in writing, the probation officer shall refer the case to the court for modification by the judge in the manner provided by Subsection (a) of Section 6 of this article.*

*(d) It is the intent of the legislature to provide courts with a continuum of programs and sanctions to employ in the supervision and rehabilitation of probationers. It is not the intent of the legislature that courts be more lenient with a defendant described by this section.*

SECTION 6. Section 8, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

*(d) Notwithstanding the provisions of Sections 3 and 3a of this article, if the court, after a hearing on a motion to revoke probation, finds that the defendant has violated one or more of the conditions of probation other than the commission of a felony offense, the court may punish the defendant by extending the period of probation instead of revoking probation. Probation may be extended under this subsection for a period not to exceed one year for a felony probation and a period not to exceed 180 days for a misdemeanor probation. The total period of probation, including any extensions imposed under this subsection, may not exceed 10 years for a felony offense or two years for a misdemeanor offense. Instead of punishing a defendant by extending a period of probation under this subsection, the court may punish the defendant by increasing the fine imposed on the defendant. The original fine imposed on the defendant and an increase in the fine imposed under this subsection may not exceed the maximum fine for the offense for which the defendant was sentenced. The court shall deposit money received from an increase in a defendant's fine under this subsection in the special fund of the county treasury provided by Subsection (b), Section 4.05, Article 42.121, of this code, to be used for the same purposes for which state-aid may be used under that section.*

SECTION 7. Subchapter C, Article 42.121, Code of Criminal Procedure, is amended by adding Section 3.11 to read as follows:

*Sec. 3.11. INTENSIVE PROBATION. In order to divert defendants from confinement in the Texas Department of Corrections under Section 6f, Article 42.12, of this code and to provide intensive probation to other probationers with special needs, the commission may develop and fund department-managed programs to provide for the intensive probation of those probationers. Programs developed and funded under this section include programs that utilize probation officers with intensive supervision caseloads, utilize probation officers with specialized caseloads, provide surveil-*



lance probation, and utilize home confinement and electronic monitoring probation supervision.

SECTION 8. Article I, General Appropriations Act for Fiscal Year 1987 (Chapter 13, Acts of the 69th Legislature, 3rd Called Session, 1986), is amended by adding to the Adult Probation Commission, at page I-160, the following:

13. *Except as otherwise provided by this provision, the Adult Probation Commission is authorized to transfer an amount not to exceed 10 percent from any program item to any other program item, if the amount transferred is used for the purposes of expanding programs to divert people from commitment to the Texas Department of Corrections or providing educational and informational courses for judges and prosecutors on available diversion programs. The Adult Probation Commission may not transfer any amount from any other program item to Item 3.a., Basic Per Capita State Aid, or Item 3.b., Supplemental Per Capita Aid.*

SECTION 9. On the effective date of this Act, of the amounts appropriated from State Highway Fund No. 006 to the State Department of Highways and Public Transportation under the General Appropriations Act for Fiscal Year 1987 (Chapter 13, Acts of the 69th Legislature, 3rd Called Session, 1986), the sum of \$32.5 million is transferred to the emergency appropriation fund, which is created in the State Treasury. That fund is appropriated as follows:

(1) \$12.1 million is appropriated to the office of the attorney general for payment of workers' compensation claims;

(2) \$12.6 million is appropriated to the Texas Department of Corrections for expenditure for compliance with federal court orders under the *Ruiz (Ruiz v. Estelle*, 503 F. Supp. 1265 (S.D. Tex. 1980)) case as follows:

(A) \$2.2 million for salaries for medical personnel exempt from the state classification system;

(B) \$8.4 million for salaries for medical personnel subject to the state classification system; and

(C) \$2 million for the unmixing of prison population classifications; and

(3) \$7.8 million is appropriated to the Board of Pardons and Paroles for expenditure as follows:

(A) \$2.2 million for an additional 400 beds in halfway houses operating under existing contracts;

(B) \$4.9 million for an additional 1,000 beds in halfway houses to operate under new contracts; and

(C) \$700,000 for intensive supervision programs.

SECTION 10. Funds appropriated under this Act to the Texas Department of Corrections may be expended only on the governor's approval. The governor may approve those expenditures only if he determines the expenditure is necessary or appropriate for compliance with federal court orders under the *Ruiz (Ruiz v. Estelle*, 503 F. Supp. 1265 (S.D. Tex. 1980)) case.

SECTION 11. This Act supersedes any law restricting to a particular purpose the expenditure of funds in State Highway Fund No. 006 that are not constitutionally dedicated.

SECTION 12. The funds transferred by this Act are in addition to funds previously appropriated to the office of the attorney general, the Texas Department of Corrections, and the Board of Pardons and Paroles.

SECTION 13. Subsection (d), Section 8, Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 14. (a) The change in law made by Sections 4, 5, and 6 of this Act applies to a defendant only if on or after the effective date of this Act:

(1) the defendant is placed on probation; or

(2) the defendant's probation is modified.

(b) If before the effective date of this Act a defendant is granted probation or the defendant's probation is modified, the law in effect when the probation was granted or modified applies, and the former law is continued in effect for this purpose.

SECTION 15. This Act takes effect immediately, except that Section 13 of this Act takes effect September 1, 1987.

SECTION 16. 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, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed the Senate on February 4, 1987, by the following vote: Yeas 25, Nays 3; and that the Senate concurred in House amendments on February 18, 1987, by the following vote: Yeas 26, Nays 2; passed subject to the provisions of Article III, Section 49a of the Constitution of Texas. Passed the House, with amendments, on February 17, 1987, by the following vote: Yeas 129, Nays 11, two present not voting; passed subject to the provisions of Article III, Section 49a of the Constitution of Texas.

Approved Feb. 20, 1987.

Effective Feb. 20, 1987, except § 13 effective Sept. 1, 1987.