

CHAPTER 1049

S.B. No. 245

AN ACT

relating to the composition, operations, and continuation of the Texas Board of Corrections, to the manner in which defendants are sentenced, confined, and released from confinement, and to limitations of personal actions by inmates.

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

SECTION 1. Section 2, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927 (Article 6166a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. It shall be the policy of this State, in the operation and management of the *Texas Department of Corrections* [~~Prison System~~], to so manage and conduct the same in that manner as will be consistent with the operation of a modern prison system, and with the view of making the *department* [~~System~~] self-sustaining; and that those convicted of violating the law and sentenced to a term in the *department* [~~State Penitentiary~~] shall have humane treatment, and be given opportunity, encouragement and training in the matter of reformation. [~~All prisoners shall be worked within the prison walls and upon farms owned or leased by the State; and in no event shall the labor of a prisoner be sold to any contractor or lessee to work on farms, or elsewhere, nor shall any prisoner be worked on any farm or otherwise, upon shares, except such farm be owned or leased by the State of Texas.~~]

SECTION 2. Title 108, Revised Statutes, is amended by adding Article 6166a-2 to read as follows:

Art. 6166a-2. CONTRACTS FOR INMATE LABOR. (a) In this article, "state agency" has the meaning assigned the term "agency" by Section 2, The Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes), and "local govern-

ment" has the meaning assigned that term by Section 3(1), The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes).

(b) The Texas Department of Corrections is directed to seek contracts with state agencies and local governments to provide inmate labor to those agencies and governments.

(c) The department may not enter a contract with a state agency under this article unless the contract is in conformity with The Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes) and may not enter into a contract with a local government under this article unless the contract is in conformity with The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes). A contract entered into under this article may provide that the department be reimbursed for expenses incurred by the department in providing inmate labor to the state agency or local government.

SECTION 3. Section 3a, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 6166b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3a. APPLICATION OF SUNSET ACT. The Texas Board of Corrections is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the board is abolished September 1, 1999 [1987].

SECTION 4. Section 5, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 6166d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. MEETINGS. (a) The Texas [Prison] Board of Corrections shall hold a regular meeting on the second Monday in January, March, May, July, September and November of each year for the transaction of any and all official business. Special meetings of said Board may be called by the Chairman, and upon the petition of a majority of the [five] members special meetings of said Board shall be called. Each member of the Board shall be given notice of special meetings and of the purpose thereof, and unless such notice has been given no official business shall be transacted at any special meeting. A majority of the [Six] members of the Board shall constitute a quorum for the transaction of business at any meeting of the Board.

(b) As a specific exception to the provisions of the Texas open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), the board is authorized to hold open or executive meetings on an emergency basis by telephone conference call. Each part of an open meeting that is held by a conference call must be available to be heard by the public at one or more places that the Board shall designate. Such meetings held by telephone conference shall be recorded and available to the public.

SECTION 5. Section 6, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927 (Article 6166e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. ORGANIZATION. At the beginning of a Governor's term, the Governor shall designate one member of the Board as Chairman. That member shall serve in the capacity of Chairman at the pleasure of the Governor. The Board shall elect a Vice-chairman [The Board shall organize by the election of a Chairman and a Vice-chairman] from among its members, and shall provide for the appointment of such committees as may be expedient to the accomplishment of the duties of said Board. The Board shall have authority to employ such clerical assistance as may be necessary for the discharge of its duties.

SECTION 6. Section 7, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 6166f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. BOARD MEMBERSHIP; REMOVAL. (a) Members of the Texas Board of Corrections must be representative of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;

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

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

(b) An employee, officer, or paid consultant of a trade association in the field of criminal justice may not be a member or employee of the Board. A person who is the spouse of any officer, employee, or paid consultant of a trade association in the field of criminal justice may not be a member of the Board and may not be an employee, including an employee exempt from the state's classification plan, who is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. For the purposes of this section, a trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(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 Board, may not serve as a member of the Board or act as the general counsel to the Board.

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

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

(1) does not have at the time of appointment the qualifications required by Subsection (a) of this section for appointment to the Board;

(2) does not maintain during the member's service on the Board the qualifications required by Subsection (a) of this section for appointment to the Board;

(3) violates a prohibition established by Subsections (b) and (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 Board meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the Board.

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

(g) If the director of the Texas Department of Corrections has knowledge that a potential ground for removal exists, the director shall notify the Chairman of the Board of the ground. The Chairman of the Board shall then notify the Governor that a potential ground for removal exists. ~~[If any member of the Board shall be guilty of malfeasance, misfeasance or non-feasance in office, or shall become incapable or unfit to discharge his official duties or shall willfully fail, refuse or neglect the discharge of the duties of his office, such member may be removed from office in either of the following ways:~~

~~[(1) By the Governor in the manner provided by law.~~

~~[(2) By suit brought by the Attorney General in the name of the State on his own motion or at the direction of the Governor on the relation of the Governor, in the District Court of Travis County or in the District Court of the county of residence of such member. The Attorney General shall bring such suit when directed by the Governor to do so, provided the Governor accompanies such direction with charges and evidence showing that the member is subject to removal as provided herein. Upon the application of the Attorney General in the name of the State of Texas, the District Judge before whom such~~

~~suit is pending may immediately suspend the member from office, and such order of suspension shall be effective until set aside by the Court on motion. If the judgment of the Court be one of removal from office, the member shall be forthwith suspended from office pending any appeal of the case. When the member is so suspended, the District Judge at the time of making such order of suspension, shall appoint for the duration of such suspension some other qualified person to perform the duties of the suspended member, and such appointee shall receive the same compensation as a member of the Board. The suit shall be a civil action, to be tried as other civil cases, with the right of appeal and review as in other cases. The Court shall have authority to issue all necessary writs to enforce its judgment or order of suspension and to protect its jurisdiction over each case. Such suit shall have precedence over all other cases in the appellate courts.]~~

SECTION 7. Section 1, Article 6166g-2, Revised Statutes, is amended by adding Subsection (e) to read as follows:

(e) The Texas Board of Corrections shall give priority to entering contracts under this article that will provide the Texas Department of Corrections with secure regionally based correctional facilities designed to successfully reintegrate inmates into society through preparole, prerelease, work release, and prison industries programs.

SECTION 8. Title 108, Revised Statutes, is amended by adding Article 6166g-3 to read as follows:

Art. 6166g-3. ACQUISITION OF REAL PROPERTY. The Texas Board of Corrections may acquire real property through purchase, subject to specific appropriative authority in the General Appropriations Act, or through the acceptance of a gift, grant, or donation for a prison site.

SECTION 9. Title 108, Revised Statutes, is amended by adding Article 6166g-4 to read as follows:

Art. 6166g-4. LEASE-PURCHASE AND INSTALLMENT CONTRACTS.

Sec. 1. The Texas Board of Corrections may contract with the commissioners courts of counties to utilize, lease-purchase, purchase on an installment contract, or otherwise acquire secure correctional facilities financed and constructed under authorization of the county, subject to specific appropriative authority in the General Appropriations Act, and managed by the Texas Department of Corrections.

Sec. 2. Any lease-purchase, installment contract, or similar agreement entered into by the Texas Board of Corrections is subject to review by the attorney general, as provided for by H.B. 2514, Acts of the 70th Legislature, Regular Session, 1987, and to review and approval by the Bond Review Board, as provided for by S.B. 1027, Acts of the 70th Legislature, Regular Session, 1987, notwithstanding the amount or the length of term of the lease-purchase agreement.

SECTION 10. Title 108, Revised Statutes, is amended by adding Article 6166j-1 to read as follows:

Art. 6166j-1. GENERAL ADMINISTRATIVE PROVISIONS. (a) The Texas Board of Corrections 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 board during the preceding fiscal year. The form of the annual report and the reporting time are as provided in the General Appropriations Act.

(b) The director of the Texas Department of Corrections shall develop an intraagency career ladder program, one part of which shall require the intraagency posting, concurrently with any public posting, of all nonentry level positions.

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

(d) The state auditor at least once during each biennium shall audit the financial transactions of the department and shall include in the audit report a review of the

department's employment practices to ensure that they conform with state law and department policies regarding nepotism.

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

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

(g) The department shall keep an information file about each complaint filed with the department by a member of the general public that relates to the operations of the department.

(h) If a written complaint is filed with the department by a member of the general public that relates to the operations of the department, the department, at least as frequently as quarterly and until final disposition of the complaint, shall notify the complainant of the status of the complaint unless the notice would jeopardize an undercover investigation.

(i) The 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 must include:

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

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

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

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

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

(m) The board shall adopt policies that clearly define the respective responsibilities of the board and the staff of the department.

SECTION 11. Title 108, Revised Statutes, is amended by adding Article 6166j-2 to read as follows:

Art. 6166j-2. OFFICE OF INTERNAL AUDITS. (a) The Texas Board of Corrections shall create within the Texas Department of Corrections an office of internal audits. The board shall employ a person to serve as chief of the office of internal audits based on recommendations from the director of the department regarding qualified candidates for the position. The chief of the office of internal audits may be terminated from employment only with the approval of the board.

(b) The office of internal audits shall:

- (1) *conduct recurring financial and management audits;*
- (2) *conduct internal audits to evaluate department programs and the economy and efficiency of those programs; and*
- (3) *recommend improvements in management and programs on the basis of evaluations made under this subsection.*

(c) *The chief of the office of internal audits shall forward reports, audits, evaluations, and recommendations to the director of the department. The chief shall report directly to the board not less than once a year:*

- (1) *on the activities of his office; and*
- (2) *on the response of the department to recommendations made by the office.*

(d) *The chief of the office of internal audits shall report directly to the board on other matters and at times as directed by rule of the board.*

SECTION 12. Subsection (b), Section 28, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 6166z1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) *The amount of money which a convict is entitled to receive from the State of Texas when he is discharged from the State penitentiary or released from the State penitentiary on parole, mandatory supervision, or conditional pardon shall be \$200. Except as otherwise provided by this subsection, the Texas Department of Corrections shall give the convict \$100 of that amount on discharge. A parole officer to whom the convict is required to report by the Board of Pardons and Paroles shall give the convict the remaining \$100 if the convict reports to the officer within the time specified by the board. If a convict is released and is not required by the board to report to a parole officer or is authorized by the board to report to a location outside this state, the department shall give the convict \$200 on discharge.*

SECTION 13. Section 2, Article 6181-1, Revised Statutes, is amended to read as follows:

Sec. 2. (a) *The department shall classify all inmates as soon as practicable upon their arrival at the department and, subject to the requirements of Subsection (b) of this section, shall reclassify inmates as circumstances may warrant. All inmates shall be classified according to their conduct, obedience, industry, and prior criminal history. The director shall maintain a record on each inmate showing all classifications and reclassifications with dates and reasons therefor.*

(b) *At least annually, the board shall review the department's rules and policies relating to the classification of inmates. The board shall consider in its review whether inmate overcrowding in the department has decreased and whether it is necessary for purposes of decreasing overcrowding to classify prisoners according to the provisions of Subsection (a) of this section. If the board determines that overcrowding in the department has decreased and it is not necessary to classify prisoners according to the provisions of Subsection (a) of this section, the board shall direct the department to classify inmates according to the provisions of Subsection (c) of this section.*

(c) *On the direction of the board, the department shall classify each inmate on his arrival at the department in a time-earning category that does not allow the inmate to earn more than 20 days' good conduct time for each 30 days actually served. The department may not reclassify an inmate to a higher time-earning classification unless the inmate has served 90 or more days at the classification immediately lower than the classification to which he is to be reclassified.*

SECTION 14. Subsections (a) and (d), Section 3, Article 6181-1, Revised Statutes, are amended to read as follows:

(a) *Inmates shall accrue good conduct time based upon their classification as follows:*

- (1) *20 days for each 30 days actually served while the inmate is classified as a Class I inmate;*

(2) 10 days for each 30 days actually served while the inmate is classified as a Class II inmate; and

(3) not more [less] than 10 [~~not more than 25~~] additional days, as determined by the director, for each 30 days actually served if the inmate is a trusty.

(d) An inmate shall accrue good conduct time, in an amount determined by the director which shall not exceed 15 days for each 30 days actually served, for *diligent participation in an industrial program or other work program or for participation in an agricultural, educational, or vocational program provided to inmates by the department. For the purposes of this subsection, the term "participation in an educational program" includes the participation of the inmate as a tutor or a pupil in a literacy program authorized by Section 1, Chapter 619, Acts of the 47th Legislature, Regular Session, 1941 (Article 6203b-1, Vernon's Texas Civil Statutes). The department may not award good conduct time under this subsection for participation in a literacy program unless the department determines that the inmate participated in good faith and with diligence as a tutor or pupil.*

SECTION 15. Section 4, Article 6181-1, Revised Statutes, is amended to read as follows:

Sec. 4. Good conduct time applies only to eligibility for parole or mandatory supervision as provided in *Section 8, Article 42.18 [Section 15, Article 42.12], Code of Criminal Procedure, [1965, as amended,]* and shall not otherwise affect the inmate's term. Good conduct time is a privilege and not a right. *The classification of the inmate notwithstanding, the director may grant good conduct time to an inmate only if the director finds that the inmate is actively engaged in an agricultural, vocational, or educational endeavor or in an industrial program or other work program, unless the director finds that the inmate is not capable of participating in such an endeavor. If [Consequently, if] during the actual term of imprisonment in the department, an inmate commits an offense or violates a rule of the department, all or any part of his accrued good conduct time may be forfeited by the director. The director may, however, in his discretion, restore good conduct time forfeited under such circumstances subject to rules and policies to be promulgated by the department. Upon revocation of parole or mandatory supervision, the inmate loses all good conduct time previously accrued, but upon return to the department may accrue new good conduct time for subsequent time served in the department. The director may, however, restore good conduct time forfeited upon revocations not involving new criminal convictions after an inmate has served a reasonable period of good behavior in the department, to be no less than three months, subject to rules and policies promulgated by the department. Within 60 days after the inmate's return to the department, the Board of Pardons and Paroles shall notify the director of the grounds for revocation. At least annually, the Texas Board of Corrections shall review the department's rules and policies relating to restoration of good conduct time that has been forfeited and in awarding additional good conduct time retroactively to inmates who have been reclassified. The board shall consider in its review whether the inmate overcrowding in the department has decreased and whether it is necessary for purposes of decreasing overcrowding to restore good conduct time or award additional good conduct time retroactively to inmates who have been reclassified. If the board determines that overcrowding has decreased and it is not necessary to restore good conduct time or award additional good conduct time, it shall direct the department to discontinue those practices.*

SECTION 16. Section 1, Article 6184n, Revised Statutes, is amended to read as follows:

Art. 6184n. **MEDICAL, MENTAL HEALTH, AND MENTAL RETARDATION FURLOUGHS.** (a) The Texas Department of Corrections may grant a medical furlough to any inmate serving a term of imprisonment in the department for the purpose of obtaining medical treatment, diagnosis, or medical study, and under such security conditions as the department may deem necessary and proper.

(b) *The department may grant mental health or mental retardation furloughs for inmates of the department to be transferred to facilities of the Texas Department of Mental Health and Mental Retardation, for purposes of treatment and supervision.*

SECTION 17. Subsection (a), Section 2, Article 6184n, Revised Statutes, is amended to read as follows:

(a) The Texas Department of Corrections may grant temporary furloughs of not more than *seven [five]* days to inmates who are considered acceptable security risks by the department to attend funerals, to visit critically ill relatives, or for any other reason that the department determines is appropriate. *It is the intent of the legislature that the Texas Department of Corrections institute and continue policies that will allow inmate furloughs. The policies shall clearly state that furloughs are to be determined by the department and not in regards to the region or county or the state to which the prisoner is to be furloughed.*

SECTION 18. Title 108, Revised Statutes, is amended by adding Article 6184q to read as follows:

Art. 6184q. MISCELLANEOUS CLAIMS. The Texas Department of Corrections may pay from the miscellaneous funds appropriated to the department claims made by inmates for property lost or damaged by the department. The department shall maintain a record of all transactions made under this article and shall send a copy of that record to the state auditor at least annually. The record must show the amount of each claim paid, the identity of each claimant, and the purpose for which each claim was made. The department may not pay under this article more than \$500 on a claim.

SECTION 19. Title 108, Revised Statutes, is amended by adding Article 6184r to read as follows:

Art. 6184r. EXHAUSTION OF ADMINISTRATIVE REMEDIES. The Texas Department of Corrections shall develop and maintain a system for the resolution of inmate grievances that qualifies for certification under 42 U.S.C. Section 1997e and shall obtain certification under that section.

SECTION 20. Title 108, Revised Statutes, is amended by adding Article 6184s to read as follows:

Art. 6184s. COST OF CONFINEMENT AS CLAIM. (a) The Texas Department of Corrections may establish a claim and lien against the estate of an inmate who dies while confined in the department for the cost to the department of the inmate's confinement.

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

(c) The department shall adopt rules regarding recovery of the cost of confinement through enforcement of claims or liens established under this article. The Criminal Justice Policy Council shall monitor the activity of the department in establishing and enforcing claims or liens under this article. If the council determines that the benefits obtained by the department do not exceed the costs to the department of establishing and enforcing claims or liens, the council shall direct the department to discontinue establishing claims and liens under this article.

SECTION 21. Title 108, Revised Statutes, is amended by adding Article 6184t to read as follows:

Art. 6184t. VALIDATION OF ACTIONS AND TAX EXEMPTION. (a) All resolutions, orders, agreements, contracts, undertakings, and other acts or attempted acts of the Texas Board of Corrections, Texas Department of Corrections, and State Purchasing and General Services Commission and by the agents, attorneys, or officers thereof related to the following are hereby legalized, approved, and validated in all respects:

(1) the financing and construction of the correctional facility known as the Mark W. Michael Unit of the Coffield Prison Farm located in Anderson County on land owned by the State of Texas for the use and benefit of the Texas Department of Corrections, which land has been the subject of a lease granted by the Texas Board of Corrections and a sublease arrangement entered into by the Texas Department of Corrections and the State Purchasing and General Services Commission; and

(2) *the financing and construction of trusty camp facilities in the Counties of Anderson, Brazoria, Coryell, Houston, Madison, and Walker on parcels of land located in such counties and owned by the State of Texas for the use and benefit of the Texas Department of Corrections, which parcels have been the subject of a lease granted by the Texas Board of Corrections and a sublease arrangement entered into by the Texas Department of Corrections and the State Purchasing and General Services Commission.*

(b) *The property associated with the facilities described in (a) hereof shall be exempt from taxation, provided that such property is used exclusively in the performance of the duties and functions of the Texas Department of Corrections.*

SECTION 22. Sections 1 and 2, Chapter 619, Acts of the 47th Legislature, Regular Session, 1941 (Article 6203b-1, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 1. (a) *The Texas Department of Corrections [Prison Board] shall cause all illiterates to receive instruction the equal of not less than five (5) nor more than eight (8) hours per week.*

(b) *The Texas Department of Corrections shall establish a program to teach reading to functionally illiterate inmates. The department shall allow inmates who are capable of serving as tutors to tutor functionally illiterate inmates and shall actively encourage volunteer organizations to aid in the tutoring of inmates. The department, the inmate to be tutored, and the person who tutors the inmate jointly shall establish reading goals for the inmate to be tutored. A person who acts as a tutor may only function as a teacher and advisor to an inmate and may not exercise supervisory authority or control over the inmate [and all other prisoners may, at their option, receive academic or vocational instruction at such hours. The hours fixed for such instruction shall be other than those now fixed by law for labor. Nothing herein contained shall prevent the literate prisoners from enrolling in academic instruction or special occupational or vocational instruction as now provided for by the Texas Prison Board].*

Sec. 2. *The Texas Department of Corrections shall identify functionally illiterate inmates and shall inform the Board of Pardons and Paroles if it determines that an inmate who is to be released to the supervision of the board is in need of continuing education after release from the department. [Each prisoner attending such instruction in good faith shall be allowed as a credit on the term of his sentence one hour additional for each hour in attendance of school classes.]*

SECTION 23. Chapter 520, Acts of the 65th Legislature, Regular Session, 1977 (Article 6203c-2, Vernon's Texas Civil Statutes), is amended by adding Sections 4A and 4B to read as follows:

Sec. 4A. *The Texas Department of Corrections shall establish and maintain an overnight holding facility for inmate outpatients at The University of Texas Medical Branch at Galveston.*

Sec. 4B. *The Texas Department of Corrections and The University of Texas Medical Branch at Galveston shall adopt a memorandum of understanding that establishes the responsibilities of the department and the medical branch in maintaining the department's hospital facility, providing security, and providing medical care. The memorandum must also establish a joint peer review committee and a joint utilization review committee. Each committee shall be composed of medical personnel employed by the department and by the medical branch. The joint peer review committee shall review all case files to determine whether the quality of medical care provided is adequate, according to accepted medical standards. The joint utilization review committee shall review all case files to determine whether treatment given is medically necessary under the circumstances of each case, taking into account accepted medical standards. The department shall coordinate the development of the memorandum of understanding. The department and the medical branch by rule shall adopt the memorandum.*

SECTION 24. Subsections (a) and (c), Section 5, Article 6203c-3, Revised Statutes, are amended to read as follows:

(a) The director shall use inmate labor in the prison industries program to the greatest extent feasible *and shall develop and expand the prison industries program by pursuing arrangements with business and industry for the use of inmate labor.*

(c) The board may develop and administer an incentive pay scale for prisoners incarcerated in the Texas Department of Corrections who participate in the prison industries program. The program may be financed through contributions donated for this purpose by private business enterprises or by private industries contracting with the Texas Department of Corrections. *The department shall apportion pay earned by an inmate under this article to the following persons and entities, in amounts determined at the discretion of the department:*

- (1) persons to whom the inmate has been ordered by a court to pay restitution;*
- (2) the inmate's family and dependents;*
- (3) the state, as reimbursement for the cost of the inmate's confinement;*
- (4) the compensation to victims of crime fund, created by Section 14, Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes); and*
- (5) the inmate's trust fund.*

SECTION 25. Title 108, Revised Statutes, is amended by adding Article 6203c-4 to read as follows:

Art. 6203c-4. JOB-TRAINING PROGRAMS. The Texas Department of Corrections and the Board of Pardons and Paroles shall adopt a memorandum of understanding that establishes the respective responsibility of the department to implement job-training programs for inmates and of the board to monitor the success of those programs. The memorandum must establish a method by which the board provides the department with information relating to the employment histories of inmates released from the department on parole and mandatory supervision. The department shall coordinate the development of the memorandum of understanding. The department and the board by rule shall adopt the memorandum.

SECTION 26. Title 108, Revised Statutes, is amended by adding Article 6203c-5 to read as follows:

Art. 6203c-5. COMPENSATION OF PSYCHIATRISTS. Compensation paid by the Texas Department of Corrections to psychiatrists employed by the Texas Department of Corrections should be comparable to compensation authorized for the Texas Department of Mental Health and Mental Retardation to pay to psychiatrists employed by the Texas Department of Mental Health and Mental Retardation.

SECTION 27. Title 108, Revised Statutes, is amended by adding Article 6203c-6 to read as follows:

Art. 6203c-6. MEDICAL RESIDENCIES. The Texas Department of Corrections may establish a residency program or a rotation program to employ or train physicians to treat inmates in the department.

SECTION 28. Title 108, Revised Statutes, is amended by adding Article 6203c-7 to read as follows:

Art. 6203c-7. CONTRACTS FOR DIAGNOSTIC AND EVALUATION SERVICES.

(a) The Texas Department of Corrections shall request proposals and may award one contract to a private vendor or adult probation department to screen and diagnose, either before or after adjudications of guilt, persons who may be transferred to the department. The contract entered into under this section may not have a duration of more than two years. The department shall award a contract under this article if the department determines that:

- (1) the party proposing to enter into the contract can provide psychiatric, psychological, or social evaluations of persons who are to be transferred to the department;*

(2) *the services provided will reduce the chances of misdiagnosis of mentally ill and mentally retarded persons who are to be transferred to the department, expedite the diagnostic process, and offer savings to the department;*

(3) *the quality of services offered equals or exceeds the quality of the same services provided by the department; and*

(4) *the state will assume no additional liability by entering into a contract for the services.*

(b) *If the department enters into a contract under this article and during or at the end of the contract period determines that the diagnostic services performed under the contract are of a sufficient quality and are cost effective, the department shall submit requests for additional proposals for contracts and award one or more contracts in the same manner as provided by Subsection (a) of this article.*

SECTION 29. Title 108, Revised Statutes, is amended by adding Article 6203c-8 to read as follows:

Art. 6203c-8. **CIVIL COMMITMENT PRIOR TO PAROLE.** (a) *The Texas Department of Corrections and the Board of Pardons and Paroles shall establish a system to identify mentally ill inmates who are nearing eligibility for release on parole.*

(b) *The department shall provide the board with the names of inmates determined by the department to be mentally ill. Not later than the 30th day before the initial parole eligibility date of an inmate identified as mentally ill, the board shall notify the department that the inmate is about to reach his initial parole eligibility date. After receiving notice under this subsection, a department psychiatrist shall examine the inmate. The psychiatrist shall file a sworn application for court-ordered temporary mental health services under Chapter 3, Texas Mental Health Code (Article 5547-26 et seq., Vernon's Texas Civil Statutes), if the psychiatrist determines that the inmate is mentally ill and as a result of the illness the inmate meets at least one of the criteria listed in Section 50, Texas Mental Health Code (Article 5547-50, Vernon's Texas Civil Statutes).*

(c) *The psychiatrist shall include with the application a sworn certificate of medical examination for mental illness in the form prescribed by Section 33, Texas Mental Health Code (Article 5547-33, Vernon's Texas Civil Statutes).*

(d) *The department is liable for costs incurred for a hearing under Chapter 3, Texas Mental Health Code (Article 5547-26 et seq., Vernon's Texas Civil Statutes), that follows an application filed by a department psychiatrist under this article.*

SECTION 30. Title 108, Revised Statutes, is amended by adding Article 6203c-9 to read as follows:

Art. 6203c-9. **SPECIAL ALTERNATIVE INCARCERATION PROGRAM.** (a) *The Texas Department of Corrections shall establish a program to confine probationers who are required to serve not more than 90 days in the department as a condition of probation imposed under Section 3h, Article 42.12, Code of Criminal Procedure.*

(b) *Probationers participating in a program under this article are not required to undergo the complete reception and diagnostic process required of other prisoners, but the department may require the probationers to undergo those diagnostic processes determined by the department to be necessary.*

(c) *Probationers participating in a program under this article shall be segregated from the general population of the department.*

(d) *Probationers participating in a program under this article shall be required to participate in strenuous labor and the department shall conduct programs to educate the probationers as to the conditions under which inmates in the department live.*

(e) *The department shall promulgate rules of conduct for probationers participating in the program under this article. If the department determines that a probationer is not complying with the rules, the department may request the court that placed the probationer in the program to end the probationer's participation in the program. If on the 90th day after a probationer begins participation in the program the court has not suspended the imposition of the probationer's sentence of confine-*

ment, the department shall transfer the probationer from the program to any unit within the department.

SECTION 31. Title 108, Revised Statutes, is amended by adding Article 6203c-10 to read as follows:

Art. 6203c-10. MANDATORY REPORTING OF PHYSICIAN MISCONDUCT OR MALPRACTICE. (a) If the Texas Department of Corrections receives an allegation that a physician employed or under contract with the department has committed an action that constitutes a ground for the denial or revocation of the physician's license under Section 3.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), the department shall report the information to the Texas State Board of Medical Examiners in the manner provided by Section 4.02 of that Act.

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

SECTION 32. Title 108, Revised Statutes, is amended by adding Article 6203c-11 to read as follows:

Art. 6203c-11. CONTINUITY OF CARE

Sec. 1. (a) The Texas Department of Corrections, the Board of Pardons and Paroles, the Texas Department of Mental Health and Mental Retardation, the Texas Adult Probation Commission, and representatives of community mental health and mental retardation centers appointed by the commissioner of the Texas Department of Mental Health and Mental Retardation shall adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for mentally ill or mentally retarded inmates. An agency of the state not listed in this subsection that determines that it may provide services to mentally ill or mentally retarded inmates may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.

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

(1) identifying mentally ill or mentally retarded inmates;
(2) notifying the board, the Texas Department of Mental Health and Mental Retardation, and community centers as to when a mentally ill or mentally retarded inmate is to be released and as to the inmate's release destination;

(3) identifying the services needed by the mentally ill or mentally retarded inmates to reenter successfully the community; and

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

(c) The Texas Department of Mental Health and Mental Retardation shall coordinate development of the memorandum of understanding. The departments, the board, the commission, and the representatives of the community centers by rule shall adopt the memorandum.

Sec. 2. (a) The Texas Department of Corrections, the Board of Pardons and Paroles, the Texas Department of Human Services, and the Texas Department on Aging shall adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for elderly inmates. An agency of the state not listed in this subsection that determines that it may provide services to elderly inmates may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.

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

(1) identifying elderly inmates;
(2) notifying the board and the Texas Department on Aging as to when an elderly inmate is to be released and as to the inmate's release destination;

(3) identifying the services needed by the elderly inmates to reenter successfully the community; and

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

(c) *The Texas Department on Aging shall coordinate the development of the memorandum of understanding. The departments and the board by rule shall adopt the memorandum.*

Sec. 3. (a) *The Texas Department of Corrections, the Board of Pardons and Paroles, the Texas Department of Mental Health and Mental Retardation, and the Texas Commission on Alcohol and Drug Abuse shall adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for inmates with a history of drug or alcohol abuse. An agency of the state not listed in this subsection that determines that it may provide services to inmates with a history of drug or alcohol abuse may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.*

(b) *The memorandum of understanding must establish methods for:*

- (1) *identifying inmates with a history of drug or alcohol abuse;*
- (2) *notifying the board, the Texas Department of Mental Health and Mental Retardation, and the commission as to when an inmate with a history of drug or alcohol abuse is to be released and as to the inmate's release destination;*
- (3) *identifying the services needed by the inmates with a history of drug or alcohol abuse to reenter successfully the community; and*
- (4) *determining the manner in which each party that participates in the establishment of the memorandum can share information about inmates and use that information to provide continuity of care.*

(c) *The Texas Commission on Alcohol and Drug Abuse shall coordinate the memorandum of understanding. The departments, the board, and the commission by rule shall adopt the memorandum.*

(d) *The Texas Department of Corrections shall, from funds received for such purposes, fund and operate a full service alcoholism and drug counseling program for chemically dependent inmates. The department shall provide a sufficient number of alcoholism and drug counselors to provide counseling services for not less than 80 percent of those inmates in need of alcohol or drug counseling. The department also shall provide a sufficient administrative and supervisory support staff to organize, operate, and evaluate a program that motivates those inmates with a history of alcohol or drug-related problems to pursue a socially acceptable and chemically free lifestyle. The department shall actively pursue federal grants for the purpose of helping fund the program created under this subsection.*

Sec. 4. (a) *The Texas Department of Corrections, the Board of Pardons and Paroles, the Texas Rehabilitation Commission, the Texas Commission for the Deaf, the Texas Department of Human Services, and the Texas Commission for the Blind shall adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for physically handicapped inmates. An agency of the state not listed in this subsection that determines that it may provide services to physically handicapped inmates may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.*

(b) *The memorandum of understanding must establish methods for:*

- (1) *identifying physically handicapped inmates;*
- (2) *notifying the board and the commissions as to when a physically handicapped inmate is to be released and as to the inmate's release destination;*
- (3) *identifying the services needed by physically handicapped inmates to reenter successfully the community; and*

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

(c) *The Texas Rehabilitation Commission shall coordinate the development of the memorandum of understanding. The departments, the board, and the commissions by rule shall adopt the memorandum.*

Sec. 5. (a) The Texas Department of Corrections, the Board of Pardons and Paroles, and the Texas Employment Commission shall adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for inmates with a history of chronic unemployment. An agency of the state not listed in this subsection that determines that it may provide services to inmates with a history of chronic unemployment may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.

(b) *The memorandum of understanding must establish methods for:*

- (1) *identifying inmates with a history of chronic unemployment;*
- (2) *notifying the board and the commission as to when an inmate with a history of chronic unemployment is to be released and as to the inmate's release destination;*
- (3) *identifying the services needed by the inmates with a history of chronic unemployment to reenter successfully the community; and*

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

(c) *The Texas Employment Commission shall coordinate the development of the memorandum of understanding. The department, the board, and the commission by rule shall adopt the memorandum.*

SECTION 33. Title 108, Revised Statutes, is amended by adding Article 6203c-12 to read as follows:

Art. 6203c-12. DIRECT PURCHASE FOR INDUSTRY AND AGRICULTURAL PURPOSES. (a) The Board of Corrections shall have the power to authorize the director to establish rules allowing the department to purchase directly or purchase at public auction any livestock, agricultural commodities, agricultural or industrial equipment, supplies, and raw materials for purposes of agricultural or industrial production, breeding, consumption, or resale, when the department may deem such action is economically feasible and advantageous to the Texas Department of Corrections. The provisions of the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) shall not apply to purchases made under this article. The department shall notify the State Purchasing and General Services Commission, as soon as practical, of purchases made under this article and the purchase price.

(b) *In order to carry out the provisions of this article, the industry and agricultural fund is created to be deposited in a local bank. Such fund shall be expended for the purposes expressed in this article. Unexpended balances of this fund carry forward from fiscal year to fiscal year.*

SECTION 34. Title 108, Revised Statutes, is amended by adding Article 6203c-13 to read as follows:

Art. 6203c-13. PARTICIPATION BY VOLUNTEER ORGANIZATIONS. The Texas Department of Corrections shall actively encourage volunteer organizations to provide the following programs for inmates confined in the department:

- (1) *literacy and education programs;*
- (2) *life skills programs;*
- (3) *job skills programs;*
- (4) *parent-training programs;*
- (5) *drug and alcohol rehabilitation programs;*

- (6) support group programs;
- (7) arts and crafts programs; and
- (8) other programs determined by the department to aid inmates in the transition between confinement and society and to reduce incidence of recidivism among inmates.

SECTION 35. Title 108, Revised Statutes, is amended by adding Article 6203c-14 to read as follows:

Art. 6203c-14. VISITATION. (a) The Texas Department of Corrections shall establish as of September 1, 1989, a uniform visitation policy that allows eligible inmates in the department to receive visitors. The department shall require each warden in the department to:

- (1) apply the policy in the unit under the warden's control;
- (2) prominently display copies of the policy in locations in the unit that are accessible to inmates or visitors; and
- (3) if requested, provide visitors with copies of the policy.

(b) At the end of each biennium, each warden in the department shall report to the director of the department on the manner in which the policy has affected visitation at his or her unit during the preceding two years.

SECTION 36. Title 108, Revised Statutes, is amended by adding Article 6203c-15 to read as follows:

Art. 6203c-15. MATERIALS FOR ARTS AND CRAFTS. (a) The Texas Department of Corrections may purchase for inmates materials to be used by the inmates to produce arts and crafts.

(b) The department may allow inmates who produce arts and crafts in the department to sell those arts and crafts to the general public in a manner determined by the department.

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

SECTION 37. Title 108, Revised Statutes, is amended by adding Article 6203c-16 to read as follows:

Art. 6203c-16. PERMANENT WORK RECORD. The Texas Department of Corrections shall establish a permanent record for each inmate in the department participating in on-the-job training programs of the department that describes the type or types of work performed by the inmate during his confinement. The record must contain evaluations of the inmate's proficiency at tasks assigned and a record of the inmate's attendance at work. On release from the department, an inmate is entitled to a copy of a record made by the department under this article.

SECTION 38. Title 108, Revised Statutes, is amended by adding Article 6203c-17 to read as follows:

Art. 6203c-17. CONTRACT FOR CARE OF MENTALLY ILL AND MENTALLY RETARDED INMATES. The Texas Department of Corrections shall contract with the Texas Department of Mental Health and Mental Retardation for provision of Texas Department of Mental Health and Mental Retardation facilities, treatment, and habilitation for mentally ill and mentally retarded inmates in the custody of the Texas Department of Corrections. The contract shall provide detailed characteristics of the mentally ill inmate population and the mentally retarded inmate population to be affected under the contract, shall provide for the respective responsibilities of the Texas Department of Mental Health and Retardation and the Texas Department of Corrections with regard to the care and supervision of the affected inmates, and shall provide that the Texas Department of Corrections remain responsible for security.

SECTION 39. Title 108, Revised Statutes, is amended by adding Article 6203c-18 to read as follows:

Art. 6203c-18. FAMILY LIAISON OFFICER. The director of the Texas Department of Corrections shall designate one employee at each unit in the department to serve as family liaison officer for that unit. The duty of a family liaison officer is to facilitate the maintenance of ties between inmates and their families for the purpose of reducing recidivism. Each family liaison officer shall:

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

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

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

SECTION 40. Title 108, Revised Statutes, is amended by adding Article 6203c-19 to read as follows:

Art. 6203c-19. FAMILIES OF INMATES ADVISORY COMMITTEE.

Sec. 1. ADVISORY COMMITTEE CREATION. The Role of the Family in Reducing Recidivism Advisory Committee to the Texas Department of Corrections is created.

Sec. 2. MEMBERSHIP. The advisory committee consists of a representative of the Texas Department of Corrections, a representative of the Board of Pardons and Paroles, a representative of the attorney general's office, two members appointed by the governor, two members appointed by the lieutenant governor, and two members appointed by the speaker of the Texas House of Representatives. Each appointed member must be a citizen of the state and should have a knowledge of corrections issues. The officer appointing the member shall give preference to appointees who are or have been family members of inmates.

Sec. 3. TERMS OF OFFICE. Each appointed member of the advisory committee serves at the will of the officer appointing that member.

Sec. 4. CHAIRMAN. The governor shall designate one of the members appointed by him to serve as chairman of the advisory committee.

Sec. 5. 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 Texas Board of Corrections.

Sec. 6. 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 constitutes a quorum.

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

Sec. 7. FUNCTION. (a) The advisory committee shall make studies of and make recommendations to the Texas Department of Corrections and to the legislature relating to:

- (1) visitation policies in the department;*
- (2) the availability and effectiveness of rehabilitation programs in the department;*
- (3) the efficiency of educational and vocational programs in the department;*
- (4) special problems faced by inmates with children;*
- (5) the special needs of indigent inmates;*
- (6) policies and laws relating to the distribution of release money to inmates; and*
- (7) other issues of special interest to families with relatives in the department.*

(b) *The advisory committee may request the department to aid in the preparation of studies required by this section, and the department shall, to the best of its abilities, provide the requested aid.*

SECTION 41. Title 108, Revised Statutes, is amended by adding Article 6203g-1 to read as follows:

Art. 6203g-1. AGRICULTURAL ADVISORY COMMITTEE.

Sec. 1. ADVISORY COMMITTEE CREATION. The Advisory Committee on Agriculture to the Texas Department of Corrections is created.

Sec. 2. MEMBERSHIP. The advisory committee consists of five members. One member must be a member of the Texas Board of Corrections, and if possible that member should have a knowledge of agriculture. One member must be a member of the faculty at Texas A&M University with expertise in agriculture. The other members must be citizens of the state with knowledge of agriculture. The Texas Board of Corrections shall appoint the board member, the faculty member from Texas A&M University, and two other citizen members. The commissioner of agriculture shall appoint the remaining citizen member.

Sec. 3. TERMS OF OFFICE. Members of the advisory committee serve at the will of the Texas Board of Corrections.

Sec. 4. CHAIRMAN. The member of the advisory committee who is also a member of the Texas Board of Corrections serves as chairman of the advisory committee.

Sec. 5. 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 Texas Board of Corrections.

Sec. 6. 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 constitutes a quorum.

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

Sec. 7. FUNCTION. The purpose of the advisory committee is to present to the Texas Board of Corrections periodic evaluations of agricultural programs, suggestions for new areas of agricultural operations, and reviews related to the need for mechanization and the use of inmate labor in agricultural operations. The committee shall report to the board on its activities two or more times each year.

SECTION 42. Title 108, Revised Statutes, is amended by adding Article 6203g-2 to read as follows:

Art. 6203g-2. AGRICULTURAL EFFICIENCY AND ECONOMY. (a) The Texas Department of Corrections shall review annually the agricultural operations of the department. The review must include:

(1) a cost-effectiveness analysis of all agricultural programs;

(2) a determination as to whether the department could more economically purchase certain agricultural products rather than produce those products; and

(3) a determination as to whether certain agricultural operations performed by inmates could be mechanized, taking into account whether mechanization would adversely affect security or inmate discipline.

(b) The department shall use the information provided by the annual review in developing and improving agricultural operations.

(c) The department shall provide the Texas Board of Corrections with a copy of the annual review required by this article.

SECTION 43. Title 108, Revised Statutes, is amended by adding Article 6203h to read as follows:

Art. 6203h. URBAN PRERELEASE PROGRAM. (a) If the Texas Department of Corrections builds a new unit or leases or contracts to operate a unit that is within 100 miles of a county with a population of 100,000 or more, the department shall assign at least one-fourth of the inmates housed in the unit to an urban prerelease program. The Criminal Justice Coordinating Council at least once a year shall provide the department with a list, on the basis of the best information available to the council, of counties in this state with a population of 100,000 or more.

(b) The department may assign to the urban prerelease program any inmate who is within six months of his initial parole eligibility date, as calculated or projected under Subsection (b), Section 8, Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985.

(c) The department shall attempt to secure employment in the community for the inmate. The employer of an inmate shall deliver the inmate's salary to the department. The department shall apportion the salary to the following persons and entities, in amounts determined at the discretion of the department:

- (1) persons to whom the inmate has been ordered by a court to pay restitution;*
- (2) the inmate's family and dependents;*
- (3) the state, as reimbursement for the cost of the inmate's confinement;*
- (4) the compensation to victims of crime fund, created by Section 14, Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes); and*
- (5) the inmate's trust fund.*

(d) An inmate participating in a program under this article shall be confined in the unit at all times except for time spent at work and traveling to and from work and community-based counseling programs.

(e) The department shall provide inmates participating in the urban prerelease program with employment counseling, drug and alcohol counseling, and family counseling.

(f) The Texas Employment Commission shall provide inmates participating in the urban prerelease program with employment counseling and shall help the department obtain work for inmates. The Board of Pardons and Paroles shall provide inmates with counseling to help inmates make the transition from participation in the urban prerelease program to supervision under parole.

(g) Before beginning an urban prerelease program under this section, the Texas Department of Corrections, the Board of Pardons and Paroles, and the Texas Employment Commission shall adopt a memorandum of understanding that establishes the respective responsibilities of those agencies in participating in the urban prerelease program. The department shall coordinate development of the memorandum of understanding. The department, the board, and the commission by rule shall adopt the memorandum.

(h) The Texas Department of Corrections, the Board of Pardons and Paroles, and the Texas Employment Commission jointly shall conduct an annual review of the urban prerelease program.

SECTION 44. Title 108, Revised Statutes, is amended by adding Article 6203i to read as follows:

Art. 6203i. LOCATION OF NEW UNITS. (a) In determining the location of a new unit, the Texas Department of Corrections, in evaluating the advantages and disadvantages of the proposed location, shall consider whether the proposed location is:

- (1) close enough to a county with a population of 100,000 or more to enable the department and inmates to have access to services and other resources provided in those counties;*
- (2) cost-effective with respect to its proximity to other units in the department;*
- (3) close to an area that would facilitate release of inmates to their area of residence; and*

(4) *close to an area that provides adequate educational opportunities and medical care.*

(b) *The Criminal Justice Coordinating Council at least once a year shall provide the department with a list, on the basis of the best information available to the council, of counties in this state with a population of 100,000 or more.*

SECTION 45. Title 108, Revised Statutes, is amended by adding Article 6203j to read as follows:

Art. 6203j. STUDY RELATED TO INMATES WITH SPECIAL NEEDS. (a) The Texas Department of Corrections shall coordinate research and prepare a report identifying inmates with special needs and considering the feasibility of transferring those inmates from the department to facilities in the state other than those of the department.

(b) *The following agencies shall assist the department in conducting research and preparing the report:*

- (1) *the Criminal Justice Coordinating Council;*
- (2) *the Board of Pardons and Paroles;*
- (3) *the Texas Adult Probation Commission;*
- (4) *the Texas Department of Mental Health and Mental Retardation;*
- (5) *the Texas Commission on Alcohol and Drug Abuse;*
- (6) *the Texas Department on Aging;*
- (7) *the Texas Rehabilitation Commission;*
- (8) *the Texas Commission for the Deaf;*
- (9) *the Texas Commission for the Blind;*
- (10) *the Texas Department of Human Services; and*
- (11) *any other agency that the director of the department determines is necessary to aid in the preparation of the report.*

(c) *A study conducted under this article must determine the special needs of inmates who are:*

- (1) *mentally ill or mentally retarded;*
- (2) *physically handicapped;*
- (3) *pregnant;*
- (4) *elderly; or*
- (5) *determined by the group conducting the study to have special needs similar to those of other inmates described by this subsection.*

(d) *A study conducted under this article must consider:*

- (1) *whether inmates described by Subsection (c) of this article should be transferred from the department to other facilities;*
- (2) *what procedures should be used to transfer the inmates to other facilities; and*
- (3) *the method of funding the cost of transferring the inmates to other facilities.*

(e) *On or before the first day of the 71st Regular Session of the Texas Legislature, the department shall deliver a copy of a report prepared under this article to the legislature. If conclusions of the report indicate the need for changes in law, the department shall recommend those changes to the legislature in the form of a bill or bills prepared for introduction.*

SECTION 46. Title 108, Revised Statutes, is amended by adding Article 6203k to read as follows:

Art. 6203k. REENTRY PROGRAM FOR LONG-TERM INMATES; COMMUNITY RESOURCES. (a) The Texas Department of Corrections shall establish a program to assist long-term inmates in preparing for their release from the department.

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

- (1) *be serving a sentence of 30 years or longer;*
- (2) *be within one year of the date projected for release;*
- (3) *volunteer for participation in the program; and*
- (4) *be approved for participation in the program by the department.*

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

(d) *The department and the Board of Pardons and Paroles shall cooperate in determining the special needs of inmates who have served long terms of confinement in the department and shall identify and develop community resources to meet those needs.*

SECTION 47. Subsection (a), Section 2, Chapter 324, Acts of the 67th Legislature, Regular Session, 1981, as amended (Article 4413(49), Vernon's Texas Civil Statutes), is amended to read as follows:

- (a) To this end, the policy council shall:
- (1) conduct an in-depth analysis of the criminal justice system;
 - (2) determine the long-range needs of the criminal justice system and recommend policy priorities for the criminal justice system;
 - (3) identify critical problems in the criminal justice system and recommend strategies to solve those problems;
 - (4) assess the cost-effectiveness of the use of state and local funds in the criminal justice system;
 - (5) recommend the goals, priorities, and standards for the allocation of criminal justice planning funds administered by the Criminal Justice Division;
 - (6) recommend means to improve the deterrent and rehabilitative capabilities of the criminal justice system;
 - (7) advise and assist the legislature in developing plans, programs, and proposed legislation for improving the effectiveness of the criminal justice system;
 - (8) guide the Criminal Justice Coordinating Council; ~~and~~
 - (9) *make cost per day calculations and interagency cost comparisons on services provided by agencies that are a part of the criminal justice system;*
 - (10) *make population calculations for use in planning for the long-range needs of the criminal justice system;*
 - (11) *determine long-range information needs of the criminal justice system and acquire that information; and*
 - (12) engage in other activities consistent with the responsibilities of the policy council.

SECTION 48. Chapter 3, Texas Mental Health Code, as amended (Article 5547-26 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 58A to read as follows:

Sec. 58A. COMMITMENT TO DEPARTMENT OF CORRECTIONS FACILITY. If a court enters an Order for Temporary Mental Health Services for an inmate of the Texas Department of Corrections following an application filed by a psychiatrist for the Texas Department of Corrections under Article 6203c-8, Revised Statutes, the court shall commit the inmate patient to a Texas Department of Corrections in-patient mental health facility.

SECTION 49. Chapter 4, Texas Mental Health Code, as amended (Article 5547-73 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 75A to read as follows:

Sec. 75A. TRANSFER OF RELEASEES FROM DEPARTMENT OF CORRECTIONS. If an inmate of the Texas Department of Corrections is a patient in a Texas

Department of Corrections in-patient mental health facility as the result of a commitment under Section 58A of this code and is released on parole or mandatory supervision from the custody of the department, on the date the releasee is released from custody the department shall transfer the releasee to a noncorrectional in-patient mental health facility. If the releasee is transferred to a facility under the control and management of the Texas Department of Mental Health and Mental Retardation, the transfer shall be to the facility of the department that serves the location to which the releasee is released and shall be made according to the provisions of Section 75 of this code. After a releasee is transferred under this section, the responsibility for the treatment of the releasee is solely with the receiving facility.

SECTION 50. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.13A to read as follows:

Sec. 2.13A. CONTRACTS FOR INMATE AND PAROLEE CARE. (a) Subject to the requirements of Subsection (b) of this section, the department may contract with:

(1) the Texas Department of Corrections, to transfer facilities to the department of corrections or otherwise provide the department of corrections with facilities for mentally ill and mentally retarded inmates in the custody of the department; and

(2) the Board of Pardons and Paroles, to transfer facilities to the Board of Pardons and Paroles or otherwise provide the Board of Pardons and Paroles with facilities for mentally ill and mentally retarded parolees and releasees under the supervision of the board.

(b) Before entering into a contract under this section, each agency that proposes to enter into the contract shall report to the governor its reasons for entering into the contract and request the governor's approval. An agency may not enter into a contract under this section unless the agency receives the written approval of the governor.

SECTION 51. Section 322, Probate Code, as amended, is amended to read as follows:

Sec. 322. CLASSIFICATION OF CLAIMS AGAINST ESTATES OF DECEDENT. Claims against an estate of a decedent shall be classed and have priority of payment, as follows:

Class 1. Funeral expenses and expenses of last sickness for a reasonable amount to be approved by the court, not to exceed Five Thousand Dollars, any excess to be classified and paid as other unsecured claims.

Class 2. Expenses of administration and expenses incurred in the preservation, safe-keeping, and management of the estate.

Class 3. Claims secured by mortgage or other liens, including tax liens, so far as the same can be paid out of the proceeds of the property subject to such mortgage or other lien, and when more than one mortgage or lien shall exist upon the same property, the oldest shall be first paid; but no preference shall be given to such mortgage or lien.

Class 4. Claims for taxes, penalties, and interest due under Title 2, Tax Code; Chapter 8, Title 132, Revised Civil Statutes of Texas, 1925, as amended; Section 81.111, Natural Resources Code; the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes); Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes); or Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

Class 5. *Claims for the cost of confinement established by the Texas Department of Corrections under Article 6184s, Revised Statutes.*

Class 6. All other claims legally exhibited within six months after the original grant of letters testamentary or of administration.

Class 7. [~~Class 6.~~] All claims legally exhibited after the lapse of six months from the original grant of letters testamentary or of administration.

SECTION 52. Section 1, Article 26.055, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. A county in which a facility of the Texas Departments of Corrections, *or a correctional facility authorized by Article 6166g-2, Revised Statutes*, is located shall pay from its general fund only the first \$250 of the aggregate sum allowed and awarded by the court for attorneys' fees under Article 26.05 toward defending a prisoner committed to that facility who is being prosecuted for an offense committed in that county while in the custody of the department if the prisoner was originally committed for an offense committed in another county.

SECTION 53. Section 8, Article 42.09, Code of Criminal Procedure, as amended, is amended to read as follows:

Sec. 8. (a) A county that transfers a defendant to the Department of Corrections under this Article shall deliver to the director of the department:

(1) a copy of the judgment entered pursuant to Article 42.01 of this code, *completed on a standardized felony judgment form described by Section 4 of that Article [as amended]*;

(2) a copy of any order revoking probation and imposing sentence pursuant to Section 8 of Article 42.12 of this code, ~~as amended,~~ including any amounts owed for restitution, fines, and court costs, *completed on a standardized felony judgment form described by Section 4 of Article 42.01 of this code; [and]*

(3) a written report that states the nature and the seriousness of each offense *and that states the citation to the provision or provisions of the Penal Code or other law under which the defendant was convicted;*

(4) *a copy of the victim impact statement, if one has been prepared in the case under Article 56.03 of this code;*

(5) *a statement as to whether there was a change in venue in the case and, if so, the names of the county prosecuting the offense and the county in which the case was tried; and*

(6) *a copy of the record of arrest for each offense;*

(7) *information regarding the criminal history of the defendant;*

(8) *a copy of the indictment or information for each offense; and*

(9) *a checklist sent by the department to the county and completed by the county in a manner indicating that the documents required by this subsection and Subsection (c) of this section accompany the defendant.*

(b) The Department of Corrections shall not take a defendant into custody under this Article until the director receives the documents required by *Subsections [Subsection] (a) and (c)* of this section.

(c) A county that transfers a defendant to the Department of Corrections under this Article shall also deliver to the director of the department any presentence investigation report, *probation revocation report, [or] psychological or psychiatric evaluation of the defendant, and available social or psychological background information relating to the defendant* and may deliver to the director any additional information upon which the judge or jury bases the punishment decision.

(d) The Department of Corrections shall make documents received under Subsections (a) and (c) of this section available to the Board of Pardons and Paroles on the request of the board or its representative.

(e) *A county is not required to deliver separate documents containing information relating to citations to provisions of the Penal Code or other law and to changes of venue, as otherwise required by Subsections (a)(3) and (a)(5) of this Article, if the standardized felony judgment form described by Section 4 of Article 42.01 of this code is modified to require that information.*

(f) *Except as provided by Subsection (g) of this section, the county sheriff is responsible for ensuring that documents and information required by this section*

accompany defendants sentenced by district courts in the county to terms of confinement in the Texas Department of Corrections.

(g) If the presiding judge of the administrative judicial region in which the county is located determines that the county sheriff is unable to perform the duties required by Subsection (f) of this section, the presiding judge may impose those duties on:

- (1) the district clerk; or
- (2) the prosecutor of each district court in the county.

SECTION 54. Article 42.12, Code of Criminal Procedure, as amended, is amended by adding Section 3h to read as follows:

Sec. 3h. (a) For the purposes of this section, the jurisdiction of a court in which a sentence requiring confinement in the Texas Department of Corrections is imposed for conviction of a felony shall continue for 90 days from the date the execution of the sentence actually begins. After the expiration of 75 days but prior to the expiration of 90 days from the date the execution of the sentence actually begins, the judge of the court that imposed the sentence may suspend further execution of the sentence imposed and place the defendant on probation under the terms and conditions of this article, if in the opinion of the judge the defendant would not benefit from further incarceration in a penitentiary. The court shall clearly indicate in its order placing the defendant on probation under this section that the court is not retaining jurisdiction over the defendant for the purposes of Section 3e of this article. Probation may be granted under this section only if:

- (1) the defendant is otherwise eligible for probation under this article;
- (2) the defendant is a male 17 years of age or older but younger than 26 years and does not have a physical or mental handicap that precludes strenuous physical activity; and
- (3) the defendant had never before been incarcerated in a penitentiary serving a sentence for a felony.

(b) On the date the execution of a sentence begins for a defendant placed on probation under this section, the probationer shall begin participation in a program in the Texas Department of Corrections under Article 6203c-9, Revised Statutes.

(c) If a court requests of the Texas Department of Corrections the record of a defendant placed on probation under this section, the department shall promptly send the record to the court.

SECTION 55. Title 108, Revised Statutes, is amended by adding Article 6166g-3 to read as follows:

Art. 6166g-3. SPECIAL PURCHASING PROCEDURES. The Texas Department of Corrections shall comply with any special purchasing procedures requiring competitive review under the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

SECTION 56. Subsection (a), Section 16.001, Civil Practice and Remedies Code, is amended to read as follows:

(a) For the purposes of this subchapter, a person is under a legal disability if the person is:

- (1) younger than 18 years of age, regardless of whether the person is married; or
- (2) ~~imprisoned; or~~
- ~~(3)~~ of unsound mind.

SECTION 57. Subsection (a), Section 16.022, Civil Practice and Remedies Code, is amended to read as follows:

(a) For the purposes of this subchapter, a person is under a legal disability if the person is:

- (1) younger than 18 years of age, regardless of whether the person is married;
- (2) ~~imprisoned;~~

[(3)] of unsound mind; or

(3) [(4)] serving in the United States Armed Forces during time of war.

SECTION 58. Chapter 30, Civil Practice and Remedies Code, is amended by adding Section 30.004 to read as follows:

Sec. 30.004. EXHAUSTION OF ADMINISTRATIVE REMEDIES FOR INMATES. If an inmate of the Texas Department of Corrections brings a case in state court alleging a violation of the inmate's civil rights by the department, the court may continue the case for a period of not more than 90 days if the court determines that the continuance may provide the inmate with a speedy administrative remedy under the grievance procedure.

SECTION 59. Section 104.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 104.003. LIMITS ON AMOUNT OF RECOVERABLE DAMAGES. (a) *Except as provided by Subsection (c), state [State] liability under this chapter may not exceed:*

- (1) \$100,000 to a single person and \$300,000 for a single occurrence in the case of personal injury, death, or deprivation of a right, privilege, or immunity; and
- (2) \$10,000 for a single occurrence of damage to property.

(b) *The state is not liable under this chapter to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance authorized by statute.*

(c) *The limits on state liability provided by Subsection (a) do not apply if the person for whose acts the state is liable under this chapter is a member of the Texas Board of Corrections.*

SECTION 60. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 132 to read as follows:

CHAPTER 132. UNSWORN DECLARATIONS

Sec. 132.001. USE BY INMATES IN LIEU OF SWORN DECLARATION. (a) Except as provided by Subsection (b), an unsworn declaration made as provided by this chapter by an inmate in the Texas Department of Corrections or in a county jail may be used in lieu of a written sworn declaration, verification, certification, oath, or affidavit required by statute or required by a rule, order, or requirement adopted as provided by law.

(b) *This chapter does not apply to an oath of office or an oath required to be taken before a specified official other than a notary public.*

Sec. 132.002. REQUIREMENTS OF DECLARATION. An unsworn declaration made under this chapter must be:

- (1) *in writing; and*
- (2) *subscribed by the person making the declaration as true under penalty of perjury.*

Sec. 132.003. FORM OF DECLARATION. The form of a declaration under this chapter must be substantially as follows:

"I, (insert name and inmate identifying number from Texas Department of Corrections or county jail), being presently incarcerated in (insert Texas Department of Corrections unit name or county jail name) in _____ County, Texas, declare under penalty of perjury that the foregoing is true and correct. Executed on (date). (signature)"

SECTION 61. Out of the funds appropriated to the Texas Department of Corrections in Chapter 13, Acts of the 69th Legislature, 3rd Called Session, 1985, the department is authorized, effective immediately, to transfer any unexpended balances in any program item to enter into contracts with private vendors under Article 6166g-2, Revised Statutes.

SECTION 62. (a) If agencies are required by this Act to adopt a memorandum of understanding, the agencies must adopt the memorandum by December 31, 1987.

(b) This section does not apply to the memorandum of understanding required by Subsection (g), Article 6203h, Revised Statutes, as added by Section 43 of this Act.

SECTION 63. (a) Article 6203h, Revised Statutes, as added by Section 43 of this Act, applies only to a unit that the Texas Department of Corrections begins to construct on or after the effective date of this Act.

(b) Section 8, Article 42.09, Code of Criminal Procedure, as amended by Section 53 of this Act, applies only to an inmate transferred to the Texas Department of Corrections on or after October 1, 1987.

SECTION 64. (a) The change in law made by Section 14 of this Act to Subsection (a), Section 3, Article 6181-1, Revised Statutes, applies to the maximum amount of good conduct time an inmate may earn only if the defendant is sentenced for an offense committed on or after the effective date of this Act.

(b) If a sentence is for an offense committed before the effective date of this Act, the maximum amount of good conduct time an inmate may earn is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

(c) For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 65. (a) A period of limitations that on August 31, 1987, was tolled under Section 16.001 or 16.022, Civil Practice and Remedies Code, because the person entitled to bring the action was imprisoned, begins to run on the effective date of this Act.

(b) A period before the effective date of this Act during which a person was under a legal disability because of imprisonment is not affected by this Act.

SECTION 66. This Act takes effect September 1, 1987.

SECTION 67. 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 the Senate on April 8, 1987, by a viva-voce vote; May 23, 1987, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 1987, House granted request of the Senate; June 1, 1987, Senate adopted Conference Committee Report by a viva-voce vote. Passed the House, with amendments, on May 22, 1987, by a non-record vote; May 26, 1987, House granted request of the Senate for appointment of Conference Committee; June 1, 1987, House adopted Conference Committee Report by a non-record vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.