

CHAPTER 1101

S.B. No. 341

AN ACT

relating to the operations and continuation of the Board of Pardons and Paroles, and to pardons and paroles; providing penalties.

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

SECTION 1. Section 1, Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

Sec. 1. It is the intent of this article to provide for the release of persons on parole and for the method thereof, to designate the Board of Pardons and Paroles as the agency of state government with exclusive authority to determine paroles, and to further designate the board as responsible for the investigation and supervision of persons released on parole. It is the intent of this article to aid all prisoners to readjust to society upon completion of their period of incarceration by providing a program of mandatory supervision for those prisoners not released on parole or through executive clemency and to designate the board as the agency of government responsible for the program. It is the final purpose of this article to remove from existing statutes the limitations, other than questions of constitutionality, that have acted as barriers to effective systems of *parole and mandatory supervision* [~~probations and paroles~~] in the public interest.

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

Sec. 2. This article may be cited as the "Adult Parole and Mandatory Supervision Law."

Unless the context otherwise requires, the following definitions shall apply to the specified words and phrases as used in this article:

a. "Parole" means the release of *an eligible prisoner from the physical custody of the Texas Department of Corrections to serve the remainder of his sentence under the supervision and control of the Board of Pardons and Paroles* [~~a prisoner from imprisonment but not from the legal custody of the state for rehabilitation outside prison walls under such conditions and provisions for disciplinary supervision as the board may determine~~]. Parole shall not be construed to mean a commutation of sentence or any other form of executive clemency.

b. "Mandatory supervision" means the release of *an eligible [a] prisoner from the physical custody of the Texas Department of Corrections* [~~imprisonment~~] but not on parole, *to serve the remainder of his sentence under the supervision and control of the Board of Pardons and Paroles* [~~and not from the legal custody of the state, for rehabilitation outside prison walls under such conditions and provisions for disciplinary supervision as the board may determine~~]. Mandatory supervision may not be construed as a commutation of sentence or any other form of executive clemency.

c. "Parole officer" means a person duly appointed by the *executive director* [~~of the Division of Parole Supervision~~] and assigned the duties of *assessment of needs, investiga-*

tion, and supervision of ~~[investigating and supervising]~~ paroled prisoners and prisoners released to mandatory supervision to see that *parolees and mandatory supervision releasees are complying with* the conditions of parole or mandatory supervision, as applicable ~~[are complied with]~~.

d. "Board" means the Board of Pardons and Paroles.

e. ~~["Division" means the Division of Parole Supervision of the Board of Pardons and Paroles.~~

~~[f.] "Executive director [Director]" means the executive director of the Board of Pardons and Paroles.~~

SECTION 3. Subsection (d), Section 3, Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

(d) The board shall administer the provisions of this *article* ~~[Act]~~ respecting determinations of which prisoners shall be paroled and the conditions of parole and mandatory supervision, may recommend the revocation of conditional pardons by the governor, and may revoke paroles and releases to mandatory supervision. *The board shall make appropriate recommendations to the governor in executive clemency matters.* Keeping the goals of this *article* ~~[Act]~~ in mind, the board shall have the authority to determine the degree and intensity of supervision a prisoner released on parole or released to mandatory supervision should receive.

SECTION 4. Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended by adding Section 3A to read as follows:

Sec. 3A. (a) Board members 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 agency or receiving funds from the agency;

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

(3) uses or receives a substantial amount of tangible goods, services, or funds from the agency, 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, manager, 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 executive director has knowledge that a potential ground for removal exists, the executive 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.

(h) The board 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.

(i) The executive director 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.

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

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

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

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

(n) The agency shall keep an information file about each complaint filed with the agency that relates to services provided by the agency.

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

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

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

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

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

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

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

(r) *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.*

(s) *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.*

SECTION 5. Section 5, Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

Sec. 5. (a) *The members of the board shall give full time to the duties of their office and shall be paid such salaries as the legislature may determine in appropriation Acts. The governor shall biennially designate one member to serve as chairman and one member to serve as vice-chairman.*

(b) *The board shall meet at the call of the chairman and from time to time as may otherwise be determined by majority vote of the board. A majority of the board shall constitute a quorum for the transaction of all business.*

(c) *The board shall adopt an official seal of which the courts shall take judicial notice. Decisions of the board shall be by majority vote.*

(d) *The board shall keep a record of its acts and shall notify each institution of its decisions relating to the persons who are confined therein. At the close of each fiscal year the board shall submit to the governor and to the legislature a report with statistical and other data of its work.*

(e) *All minutes of the board and decisions relating to mandatory supervision, parole, pardon, and clemency shall be matters of public record and subject to public inspection at all reasonable times.*

(f) *The board shall employ an executive director who shall be responsible to the board for the conduct of the affairs of the agency and shall be responsible for the day-to-day administration of the agency.*

(g) *The board shall adopt policies that clearly define the respective responsibilities of the board and the staff of the agency and that state that the executive director answers directly to the chairman of the board.*

SECTION 6. Section 7, Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

Sec. 7. (a) *To aid and assist the Board of Pardons and Paroles in parole and mandatory supervision decisions, provision is hereby made for the employment of parole commissioners.*

(b) *There shall be employed no less than six commissioners subject to the approval of a majority of the members of the board.*

(c) *A person may not be employed as a parole commissioner unless the person has a degree from an accredited college or university in one of the following areas and five years of full-time paid employment in one or more of the following areas: criminal justice, corrections, criminology, law, law enforcement, social work, sociology, psychology, psychiatry, medicine, or an area determined by the board to be relevant as preparation for employment as a parole commissioner.*

(d) The commissioners shall assist the board in parole decisions and mandatory supervision revocation decisions. The votes on individual recommendations by the commissioners on parole decisions and mandatory supervision revocation decisions shall be independent and have the same force and effect as votes by the board. The commissioners may assist the board in other matters as determined by the board.

(e) A parole panel, as hereinafter provided, may recommend the granting, denial, or revocation of parole and the revocation of mandatory supervision status and may conduct parole revocation hearings and mandatory supervision revocation hearings. The commissioners shall perform their duties as directed by the board.

(f) *The board shall develop and implement a policy that clearly defines circumstances under which a board member or parole commissioner should disqualify himself from voting on a parole decision or on a decision to revoke parole or mandatory supervision.*

(g) [(d)] The board may provide and promulgate a written plan for the administrative review of actions taken by a parole panel.

(h) [(e)] In matters of parole and release to mandatory supervision, the board members and commissioners may act in panels comprised of three persons in each panel. The composition of the respective panels shall be designated by the board. A majority of each panel shall constitute a quorum for the transaction of its business, and its decisions shall be by majority vote. The functions given to the board throughout this article may be enlarged and extend to the parole panels, as provided by board rules. The powers of the board and the board members can be delegated by the board to the parole panels and to the commissioners as needed for the convenience of and assistance to the board.

SECTION 7. Section 8, Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

Sec. 8. (a) The board is authorized to release on parole any person confined in any penal or correctional institution who is eligible for parole under Subsection (b) of this section. The board may consider a person for release on parole if the person has been sentenced to a term of imprisonment in the Texas Department of Corrections, is confined in a jail in this state, a federal correctional institution, or a jail or a correctional institution in another state, and is eligible for parole under Subsection (b) of this section. *The board shall release a person on parole during the tentative parole month established for the person unless the board determines that the person's release will increase the likelihood of harm to the public or that the person has failed to progress in the manner required by the board in Subsection (e) of this section.* The department shall provide the board with sentence time credit information on persons described in this section. The period of parole shall be equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. *Every prisoner while on parole shall remain in the legal custody of the state and shall be amenable to conditions of supervision ordered by the board.* All paroles shall issue upon order of the board.

(b) A prisoner under sentence of death is not eligible for parole. If a prisoner is serving a sentence for the offenses listed in Subdivision (1), Subsection (a), Section 3g, Article 42.12 of this code, or if the judgment contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article, he is not eligible for release on parole until his actual calendar time served, without consideration of good conduct time, equals *one-fourth* [one-third] of the maximum sentence or 15 [20] calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two calendar years. All other prisoners shall be eligible for release on parole when their calendar time served plus good conduct time equals *one-fourth* [one-third] of the maximum sentence imposed or 15 [20] years, whichever is less.

(c) Except as otherwise provided by this subsection, a prisoner who is not on parole, ~~except a person under sentence of death,~~ shall be released to mandatory supervision by order of the board when the calendar time he has served plus any accrued good conduct time equal the maximum term to which he was sentenced. ~~[If a prisoner is serving a sentence for an offense listed in Subdivision (1) of Subsection (a) of Section 3g of Article~~

~~42.12 of this code, or if the judgment for the offense contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article, the prisoner may not be released to mandatory supervision.] A prisoner released to mandatory supervision shall, upon release, be deemed as if released on parole. To the extent practicable, arrangements for the prisoner's proper employment, maintenance, and care shall be made prior to his release to mandatory supervision. The period of mandatory supervision shall be for a period equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. The time served on mandatory supervision is calculated as calendar time. Every prisoner while on mandatory supervision shall remain in the legal custody of the state and [institution from which he was released but] shall be amenable to conditions of supervision ordered by [the orders of] the board. A prisoner may not be released to mandatory supervision if the prisoner is serving a sentence for an offense and the judgment for the offense contains an affirmative finding under Subdivision (2), Subsection (a), Section 3g, Article 42.12, of this code or if the prisoner is serving a sentence for:~~

- (1) a first degree felony under Section 19.02, Penal Code (Murder);
- (2) a capital felony under Section 19.03, Penal Code (Capital Murder);
- (3) a first degree felony or a second degree felony under Section 20.04, Penal Code (Aggravated Kidnapping);
- (4) a second degree felony under Section 22.011, Penal Code (Sexual Assault);
- (5) a second degree or third degree felony under Section 22.02, Penal Code (Aggravated Assault);
- (6) a first degree felony under Section 22.021, Penal Code (Aggravated Sexual Assault);
- (7) a first degree felony under Section 22.03, Penal Code (Deadly Assault on Law Enforcement or Corrections Officer or Court Participant);
- (8) a first degree felony under Section 22.04, Penal Code (Injury to a Child or an Elderly Individual);
- (9) a first degree felony under Section 28.02, Penal Code (Arson);
- (10) a second degree felony under Section 29.02, Penal Code (Robbery);
- (11) a first degree felony under Section 29.03, Penal Code (Aggravated Robbery); or
- (12) a first degree felony under Section 30.02, Penal Code (Burglary), if the offense is punished under Subsection (d)(2) or (d)(3) of that section.

~~(d)(1) If a prisoner is sentenced to consecutive felony sentences under Article 42.08 of this code, the board shall designate during each sentence the date, if any, on which the prisoner would have been eligible for release on parole if the prisoner had been sentenced to serve a single sentence.~~

~~(2) For the purposes of Article 42.08 of this code, the judgment and sentence of a prisoner sentenced for a felony, other than the last sentence in a series of consecutive sentences, cease to operate:~~

~~(A) when the actual calendar time served by the prisoner equals the sentence imposed by the court; or~~

~~(B) on the date the board designates as the date on which the prisoner would have been eligible for release on parole if the prisoner had been sentenced to serve a single sentence.~~

~~(3) The board may not treat consecutive sentences as a single sentence for purposes of parole and may not release on parole a prisoner sentenced to serve consecutive felony sentences earlier than the date on which the prisoner becomes eligible for release on parole from the last sentence imposed on the prisoner.~~

~~(4) Calendar time served and good conduct time accrued by a prisoner that are used by the board in determining when a judgment and sentence cease to operate may not be used by the board:~~

(A) for the same purpose in determining that date in a subsequent sentence in the same series of consecutive sentences; or

(B) for determining the date on which a prisoner becomes eligible for release on parole from the last sentence in a series of consecutive sentences.

(e) Not later than the 120th day after the date on which a prisoner is admitted to the Texas Department of Corrections, the board shall secure all pertinent information relating to the prisoner, including but not limited to the court judgment, any sentencing report, the circumstances of the prisoner's offense, the prisoner's previous social history and criminal record, the prisoner's physical and mental health record, a record of the prisoner's conduct, employment history, and attitude in prison, and any written comments or information provided by local trial officials or victims of the offense. Except as otherwise provided by this subsection, within the 120-day period, the board shall establish a tentative parole month for the prisoner based on information gathered under this subsection and a proposed program of measurable institutional progress the board determines the prisoner must meet before being released on parole. The board is not required to establish a tentative parole month and program of progress if the board determines that to do so would be inappropriate in the prisoner's case and indicate that determination in the prisoner's file. The board shall notify the Texas Department of Corrections of each prisoner's tentative parole month and proposed program of measurable institutional progress. Within 30 days of receipt of the board's notice, the Texas Department of Corrections shall advise the board if any of the proposed programs of measurable institutional progress or the requirements of those programs cannot be achieved within the prisoner's unit of incarceration. The tentative parole month may not be a date that is earlier than the prisoner's initial parole eligibility date, as calculated or projected under Subsection (b) of this section. The board may revise a tentative parole month established under this subsection at any time the board determines is proper. The department shall work closely with the board to carry out the tentative parole program. The board and the department shall adopt a memorandum of understanding that establishes the respective responsibility of the board and the department in the operation of the tentative parole program and in the monitoring of the progress of inmates in the department. The memorandum must also establish an information committee that includes representatives of the board and the department and meets regularly to assess information needs, solve information flow problems, and reduce duplication in information gathering. The information committee shall work towards the development of a common data base that meets the needs of both the board and the department. The board and the department shall coordinate the development of the memorandum of understanding and each by rule shall adopt the memorandum. ~~[Within one year after a prisoner's admittance to the penal or correctional institution and at such intervals thereafter as it may determine, the board shall secure and consider all pertinent information regarding each prisoner, except any under sentence of death, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment, and attitude in prison, and his physical and mental health.]~~

(f)(1) In this subsection: (A) "close relative of a deceased victim" means a person who was the spouse of a deceased victim at the time of the victim's death, a parent of the deceased victim, or an adult brother, sister, or child of the deceased victim; (B) "guardian of a victim" means a person who is the legal guardian of a victim, whether or not the legal relationship between the guardian and victim exists because of the age of the victim or the physical or mental incompetency of the victim; and (C) "victim" means a person who is a victim of sexual assault, kidnapping, or aggravated robbery or who has suffered bodily injury or death as the result of the criminal conduct of another.

(2) Before considering for parole a prisoner who is serving a sentence for an offense in which a person was a victim, the board, using the name and address provided on the victim impact statement, shall make a reasonable effort to notify a victim of the prisoner's crime or if the victim has a legal guardian or is deceased, to notify the legal guardian or close relative of the deceased victim. If the notice is sent to a guardian or close relative of a deceased victim, the notice must contain a request

by the board that the guardian or relative inform other persons having an interest in the matter that the prisoner is being considered for parole. If a hearing is held, the board shall allow a victim, guardian of a victim, close relative of a deceased victim, or a representative of a victim or his guardian or close relative to provide a written statement. This subsection may not be construed to limit the number of persons who may provide statements for or against the release of the prisoner on parole. The board shall consider the statements and the information provided in a victim impact statement in determining whether or not to recommend parole. However, the failure of the board to comply with notice requirements of this subsection is not a ground for revocation of parole. Before ordering the parole of any prisoner, the board may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. The board shall develop and implement standard parole guidelines that shall be the basic criteria on which parole decisions are made. The parole guidelines shall be developed according to an acceptable research method and shall be based on the seriousness of the offense and the likelihood of favorable parole outcome. The board shall review the parole guidelines periodically and make any revisions considered necessary by virtue of statistical analysis of board actions using acceptable research methodology. A prisoner shall be placed on parole only when arrangements have been made for his employment or for his maintenance and care and when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the state and ~~[institution from which he was released but]~~ shall be amenable to the conditions of supervision ordered by ~~[orders of]~~ the board.

(g)(1) 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. 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 restitution or reparation. The board may include as a condition of parole that the prisoner pay any fine, cost, or fee, including a fee paid to a county-paid public defender or appointed counsel under Article 26.05 of this code that is imposed on the prisoner in the prisoner's sentence. The board may include as a condition of parole for a prisoner released after serving a sentence for an offense under Section 21.11, 22.011, 22.021, or 22.04, Penal Code, that the prisoner attend psychological counseling at the direction of the parole officer supervising the prisoner at the prisoner's own expense, and keep the officer informed of his attendance at counseling sessions. The board may include as a condition of parole that the prisoner attend basic education classes approved by the board for functionally illiterate parolees. 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.

(2) In addition to the conditions imposed by the board under Subdivision (1) of this subsection, the board may require as a condition of parole or release to mandatory supervision that a defendant convicted of an offense described by Article 17.41(a) of this code not directly communicate with the victim of the offense or go near a residence, school, or other location, as specifically described in the contract or statement, frequented by the victim. In imposing the condition, the board may grant the defendant supervised access to the victim. To the extent that a condition imposed under this subdivision conflicts with an existing court order granting possession of or access to a child, the condition imposed under this subdivision prevails for a period specified by the board, not to exceed 90 days.

(3) ~~The board may require as a condition of parole that the person released submit to electronic monitoring if the board determines that absent an electronic monitoring system the person would not be released on parole.~~

(4) ~~The board may require as a condition of parole or release to mandatory supervision that the person make payments in satisfaction of damages the person is liable for under Article 6184p, Revised Statutes.~~

(5) ~~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. The conditions shall, if the board considers it feasible, include a requirement that the inmate 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. [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. 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 an 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.]~~

(h) ~~The board shall certify and contract with halfway houses and shall use them to the maximum extent:~~

- (1) ~~to provide close supervision, treatment, and assistance in reintegration;~~
- (2) ~~to help persons released on parole make restitution or reparation and fulfill the obligations of law-abiding citizens; and~~
- (3) ~~to reduce recidivism.~~

(i) ~~[The halfway houses shall include a pilot project for selected inmates over 55 years of age in order to assist those elderly persons in obtaining parole by providing transitional living arrangements and possible suitable employment.~~

~~[(j) Funding for this pilot project for parole for the elderly should come from the criminal justice division of the governor's office. The funding agency should evaluate the performance of the pilot project at the end of two years of operation and provide recommendations to the governor and the legislature regarding the need and value of continuing the project.~~

~~[(k)]~~ It shall be the duty of the board at least 10 days before ordering the parole of any prisoner or upon the granting of executive clemency by the governor to notify the sheriff, the prosecuting attorney, and the district judge in the county where such person was convicted that such parole or clemency is being considered by the board or by the governor.

(j) The Board of Pardons and Paroles, the Texas Rehabilitation Commission, the Texas Department of Health, the Texas Commission on Alcohol and Drug Abuse, and the Texas Adult Probation Commission shall execute a memorandum of understanding that establishes procedures to eliminate or reduce duplication of functions in certifying, licensing, or inspecting halfway houses under their jurisdiction. Each agency by rule shall adopt the memorandum of understanding. The procedures established shall provide these agencies with information necessary for certification purposes. The Board of Pardons and Paroles shall coordinate development of the memorandum of understanding.

~~(k) The [(l)] If no parole officer has been assigned to the locality where a person is to be released on parole, mandatory supervision, or executive clemency, the board shall notify the chairman of the voluntary parole board of such county prior to the release of such person. The board shall request such voluntary parole board, in the absence of a parole officer, for information which would herein be required of such duly appointed parole officer. This shall not, however, preclude the board from requesting information from any public agency in such locality. Further, the] board is authorized to contract with probation departments [the Texas Adult Probation Commission] for the supervision of persons released on parole or mandatory supervision for supervision by an adult probation officer, provided that the contracts provide the board with a cost savings and are subject to the approval of the judge or judges that employ the officer. The board shall report annually all such payments made to the Texas Adult Probation Commission, the governor, and the legislature.~~

~~(l) [(m)] As an element of the board's halfway house program, the board, in cooperation with the Texas Department of Corrections, shall utilize halfway houses for the purpose of diverting from housing in regular units of the department of corrections suitable low-risk prisoners and other prisoners who would benefit from a smoother transition from incarceration to conditional freedom. To accomplish this purpose, the board, after reviewing all available pertinent information [and receiving the approval of the governor], may designate a presumptive parole date for any inmate who (i) is not serving a sentence for an offense listed in Subdivision (1) of Subsection (a) of Section 3g of Article 42.12 of this code and whose judgment does not contain an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article; and (ii) has never been convicted of an offense listed in Subdivision (1) of Subsection (a) of Section 3g of that article and has never had a conviction, the judgment for which contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article; and (iii) has not previously been denied release by the board]. The presumptive parole date may not be a date which is earlier than the prisoner's initial parole eligibility date, as calculated or projected pursuant to Subsection (b) of this section. If a prisoner for whom a presumptive parole date has been established is transferred into a preparole residence in a halfway house pursuant to the terms of Article 6166x-4, Revised Statutes, the board is responsible for his supervision. The board may rescind or postpone a previously established presumptive parole date on the basis of reports from agents of the board responsible for supervision or agents of the department of corrections acting in the case. If a prisoner transferred to preparole status has satisfactorily served his sentence in the halfway house to which he is assigned from the date of transfer to the presumptive parole date, without rescission or postponement of the date, the board shall order his release to parole and issue an appropriate certificate of release. The prisoner is subject to the provisions of this article governing release on parole.~~

(m) In addition to other conditions of parole and release on mandatory supervision imposed under Subsection (g) of this section, the board shall require a prisoner released on parole or mandatory supervision to pay a parole supervision fee of \$10 to the board for each month during which the prisoner is under parole supervision. The fee applies to a prisoner released in another state who is required as a term of his

release to report to a parole officer or supervisor in this state for parole supervision. On the request of the prisoner, the board may allow the prisoner to defer payments under this subsection. The prisoner remains responsible for payment of the fee and must make the deferred payment not later than two years after the date on which the payment becomes due. The board shall establish rules relating to the method of payment required of the person on parole or mandatory supervision. Fees collected under this subsection by the board shall be remitted to the comptroller of public accounts, who shall deposit the fees in the general revenue fund of the state treasury. In a parole or mandatory supervision revocation hearing under Section 15 of this article at which it is alleged only that the person failed to make a payment under this subsection, the inability of the person to pay as ordered by the board is an affirmative defense to revocation, which the person must prove by a preponderance of the evidence.

(n) The board shall enter into a memorandum of understanding with the Texas Department of Mental Health and Mental Retardation to increase the availability of services to releasees diagnosed as mentally retarded or mentally ill.

SECTION 8. Subsection (a), Section 14, Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

(a) A warrant for the return of a paroled prisoner, a prisoner released to mandatory supervision, a prisoner released on emergency reprieve or on furlough, or a person released on a conditional pardon to the institution from which he was paroled, released, or pardoned may be issued by the board in cases of parole or mandatory supervision, or by the board on order by the governor in other cases, when there is reason to believe that he has committed an offense against the laws of this state or of the United States, violated a condition of his parole, mandatory supervision, or conditional pardon, or when the circumstances indicate that he poses a danger to society that warrants his immediate return to incarceration. Such warrant shall authorize all officers named therein to take actual custody of the prisoner and return him to the institution from which he was released. Pending hearing, as hereinafter provided, upon any charge of parole violation or violation of the conditions of mandatory supervision, a ~~the~~ prisoner returned to custody shall remain incarcerated. *If the board is otherwise authorized to issue a warrant under this subsection, the board may instead issue to a prisoner a summons requiring the prisoner to appear before the board or its designee for a hearing under Section 15 of this article. The summons must state the time, place, date, and purpose of the hearing.*

SECTION 9. Section 15, Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

Sec. 15. (a) Whenever a prisoner or a person granted a conditional pardon is accused of a violation of his parole, mandatory supervision, or conditional pardon, on information and complaint by a law enforcement officer or parole officer, he shall be entitled to be heard on such charges before the board or its designee under such rules as the board may adopt; provided, however, said hearing shall be a public hearing and shall be held within 70 [90] days of the date of arrest under a warrant issued by the board or the governor and at a time and place set by the board. *The board may hold the hearing at a date later than the date otherwise required by this section if the board determines a delay is necessary to assure due process for the person. If the board determines that a parolee, mandatory supervisee, or person granted a conditional pardon has been convicted in a court of competent jurisdiction of a felony offense committed while an administrative releasee and has been sentenced by the court to a term of incarceration in a penal institution, the board's determination is to be considered a sufficient hearing and the board may revoke the parole or mandatory supervision or recommend to the governor revocation of a conditional pardon without further hearing, except that the board shall conduct a hearing to consider mitigating circumstances if requested by the parolee, mandatory supervisee, or person granted a conditional pardon.* When the board has heard the facts, it may recommend to the governor that the

conditional pardon be continued, revoked, or modified, or it may continue, revoke, or modify the parole or mandatory supervision, in any manner warranted by the evidence. *If the person's conditional pardon, parole, or mandatory supervision is revoked, the person may be required to participate in an electronic monitoring program. The board shall develop and implement a system of sanctions that may be imposed by the board, in its discretion, on a person whose conditional pardon or release on parole or mandatory supervision is continued or modified. The board must make its recommendation or decision no later than the 30th day after the date of the hearing.* When a person's parole, mandatory supervision, or conditional pardon is revoked, that person may be required to serve the portion remaining of the sentence on which he was released, such portion remaining to be calculated without credit for the time from the date of his release to the date of revocation. When a warrant is issued by the board or the governor charging a violation of release conditions, the sentence time credit shall be suspended until a determination is made by the board or the governor in such case and such suspended time credit may be reinstated by the board should such parole, mandatory supervision, or conditional pardon be continued.

(b) The board shall develop and implement a training program for designees of the board who conduct hearings under this section. The training program must assist the designees in understanding issues relating to the revocation process.

SECTION 10. Section 16, Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

Sec. 16. In order to complete the parole period, a parolee shall be required to serve out the whole term for which he was sentenced, subject to the deduction of the time he had served prior to his parole ~~[and to any diminution of sentence earned for good behavior while imprisoned in the department of corrections]~~. The time on parole shall be calculated as calendar time. This provision, however, shall not be construed so as to interfere with the constitutional power conferred upon the governor to grant pardons and to commute sentences.

~~[When any paroled prisoner has fulfilled the obligations of his parole and has served out his term as conditioned in the preceding paragraph, the board shall make a final order of discharge and issue to the parolee a certificate of such discharge.]~~

SECTION 11. Sections 17 through 29, Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, are amended to read as follows:

Sec. 17. ~~[When any prisoner who has been paroled or released to mandatory supervision has complied with the rules and conditions governing his release until the end of the term to which he was sentenced, and without a revocation of his parole or mandatory supervision, the board shall make a final order of discharge and issue the prisoner a certificate of discharge.]~~

~~[Sec. 18.]~~ On request of the governor, the board shall investigate and report to the governor with respect to any person being considered by the governor for pardon, commutation of sentence, reprieve, remission of fine, or forfeiture and make recommendations thereon. *The provisions of this article may not be construed as preventing or limiting the governor's exercise of powers vested in him by the constitution of this state.*

Sec. 18. (a) ~~[19.]~~ The Board of Pardons and Paroles shall have general responsibility for the investigation and supervision of all prisoners released on parole and to mandatory supervision. For the discharge of this responsibility there is hereby created with the board a division of parole supervision. Subject to the general direction of the board, the division of parole supervision, including its field staff, shall be responsible for obtaining and assembling any facts the board may desire in considering parole eligibility, in establishing a mandatory supervision plan, and for investigating and supervising paroled prisoners and prisoners released to mandatory supervision to see that the conditions of parole and mandatory supervision are complied with and for making such periodic reports on the progress of parolees and prisoners released to mandatory supervision as the board may desire.

(b) *The board shall collect information on recidivism of releasees under the supervision of the board and use the information collected to evaluate agency operations.*

Sec. 19 [20]. All information obtained in connection with inmates of the Texas Department of Corrections subject to parole, release to mandatory supervision, or executive clemency, or individuals who may be on mandatory supervision or parole and under the supervision of the division, or persons directly identified in any proposed plan of release for a prisoner, shall be confidential and privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the governor and the board upon request. It is further provided that statistical and general information respecting the parole and mandatory supervision program and system, including the names of paroled prisoners, prisoners released to mandatory supervision, and data recorded in connection with parole and mandatory supervision services, shall be subject to public inspection at any reasonable time.

Sec. 20 [21]. It is expressly provided that no person may be employed as a parole officer or supervisor or be responsible for the investigation or supervision of persons on parole or mandatory supervision, unless he meets the following qualifications together with any other qualifications that may be specified by the *executive* director with the approval of the Board of Pardons and Paroles: four years of successfully completed education in an accredited college or university and two years of full-time paid employment in responsible correctional work with adults or juveniles *or in a related field*, ~~social welfare work, teaching, or personnel work~~. Additional experience in the above categories may be substituted year for year for the required college education, with a maximum substitution for two years.

Sec. 21 [22]. Any parole officer or supervisor may, with the approval of the *executive* director, be designated as a probation officer by the judge of a court of the state having original jurisdiction of criminal actions. Any proportional part of the salary paid to a parole officer or supervisor so designated, however, in compensation for his service as a probation officer, shall be only with the prior written approval of the *executive* director, and all such proportional salary payments shall be periodically reported to the governor and the legislature by the director.

~~[Sec. 23. In order to provide supervision of parolees, persons released to mandatory supervision, and persons granted executive clemency who reside in sparsely settled areas of the state and in localities not served by regularly employed parole officers, the governor of this state is authorized to appoint chairmen of voluntary parole boards for such areas or localities. The appointed chairmen may, with the advice and approval of the director, appoint additional members of such voluntary parole boards. The term of service by such appointed chairmen of voluntary parole boards shall not exceed the term of office of the appointing governor, and the terms of service of locally appointed additional members of such voluntary parole boards shall not exceed the terms of office of the director. However, it is expressly provided that the terms of service by such chairmen and additional members of voluntary parole boards may be continued by appropriate reappointments. The chairmen of the voluntary parole boards shall be responsible for assigning supervision of parolees and of persons released to mandatory supervision to the members of the boards.]~~

Sec. 22 [24]. No person who is serving as a sheriff, deputy sheriff, constable, deputy constable, city policeman, Texas Ranger, state highway patrolman, or similar law enforcement officer or as a prosecuting attorney shall act as a parole officer or be responsible for the supervision of persons on parole or released to mandatory supervision.

~~[Sec. 25. Any parole officer or supervisor, upon order of the board and by direction of the director, shall be responsible for supervising persons placed on conditional pardon or furlough and prisoners transferred to preparole status under Article 6166x-4, Revised Statutes.]~~

Sec. 23 [26]. Any parole officer or supervisor ~~[employed by the division of parole supervision may]~~, upon request of the governor or *order of the board* and by direction of the *executive* director, shall be responsible for supervising persons placed on conditional

pardon or furlough and persons transferred to preparole status under Article 6166x-4, Revised Statutes.

~~[Sec. 27. The provisions of this article shall not be construed to prevent or limit the exercise by the governor of powers of executive clemency vested in him by the constitution of this state.]~~

Sec. 24 [28]. The provisions of this article shall not apply to parole from institutions for juveniles.

Sec. 25 [29]. The provisions of this article do not apply to temporary furloughs granted to an inmate by the Texas Department of Corrections under Article 6184n, Revised Statutes.

Sec. 26. *The Board of Pardons and Paroles and the Central Education Agency shall adopt a memorandum of understanding that establishes the respective responsibilities of the board and the agency in implementing a continuing education program to increase the literacy of inmates released from the Texas Department of Corrections on parole and mandatory supervision. The board and the agency shall coordinate the development of the memorandum of understanding and each by rule shall adopt the memorandum.*

Sec. 27. (a) *The Board of Pardons and Paroles shall request proposals and may award contracts to district probation offices to provide parole services to persons released to the supervision of the board. The board may award a contract under this section if the board determines that:*

(1) *the district probation office proposing to enter into the contract can provide qualified officers, types and levels of supervision, and a reporting system that are acceptable to the department; and*

(2) *the services can be provided at a cost that is not less than 10 percent lower than the cost to the board of providing the same services.*

(b) *A contract entered into under this section must contain:*

(1) *a requirement that the district probation office provide qualified officers, types and levels of supervision, and a reporting system that are acceptable to the board; and*

(2) *a provision authorizing the board to monitor the performance of the district probation office to determine if the office is in compliance with the contract.*

(c) *The board shall specifically request the district probation office serving Tarrant County and the district probation office serving Potter County to enter into a contract under this section. If a district probation office submits a proposal under this subsection that is acceptable to the board under the standards, terms, and conditions of this section, the board shall award the office a contract with a duration of two years.*

Sec. 28. (a) *In order to establish and maintain electronic monitoring programs as authorized by Section 8(g) of this article, the Board of Pardons and Paroles may fund electronic monitoring programs in parole offices serving counties with a population of 400,000 or more, as determined by the Criminal Justice Coordinating Council, on the basis of the best information available to the council.*

(b) *If the board determines that programs funded under Subsection (a) of this section are of a sufficient quality and are cost effective, the commission may:*

(1) *develop standards for the operation of electronic monitoring programs in parole offices throughout the state; and*

(2) *provide funds for the purchase or lease and maintenance of electronic monitoring equipment.*

(c) *The board shall seek funding for an electronic monitoring program on a priority basis.*

Sec. 29. (a) *The Board of Pardons and Paroles may enter into contracts for the provision of certain services to be provided to releasees under the supervision of the board, including the following:*

(1) *services to releasees who have a history of mental health or mental retardation;*

- (2) services to releasees who have a history of substance abuse; or
- (3) services to releasees who have a history of sexual offenses.
- (b) The board shall seek funding for the contracts from the legislature as a priority item.

SECTION 12. Subsection (a), Section 22.02, Penal Code, is amended to read as follows:

(a) A person commits an offense if the person commits assault as defined in Section 22.01 of this code and the person:

- (1) causes serious bodily injury to another, including the person's spouse;
- (2) threatens with a deadly weapon or causes bodily injury to a peace officer, ~~or~~ a jailer or guard employed at a municipal or county jail or by the Texas Department of Corrections, *or a member or employee of the Board of Pardons and Paroles*, when the person knows or has been informed the person assaulted is a peace officer, jailer, ~~or~~ guard, *or member or employee of the Board of Pardons and Paroles*:
 - (A) while the peace officer, jailer, ~~or~~ guard, *or member or employee of the Board of Pardons and Paroles* is lawfully discharging an official duty; or
 - (B) in retaliation for or on account of an exercise of official power or performance of an official duty as a peace officer, jailer, ~~or~~ guard, *or member or employee of the Board of Pardons and Paroles*; or
- (3) causes bodily injury to a participant in a court proceeding when the person knows or has been informed the person assaulted is a participant in a court proceeding:
 - (A) while the injured person is lawfully discharging an official duty; or
 - (B) in retaliation for or on account of the injured person's having exercised an official power or performed an official duty as a participant in a court proceeding; or
- (4) uses a deadly weapon.

SECTION 13. Section 22.03, Penal Code, is amended to read as follows:

Sec. 22.03. DEADLY ASSAULT ON LAW ENFORCEMENT OR CORRECTIONS OFFICER, MEMBER OR EMPLOYEE OF BOARD OF PARDONS AND PAROLES, OR COURT PARTICIPANT. (a) A person commits an offense if, with a deadly weapon, he intentionally or knowingly causes serious bodily injury:

- (1) to a peace officer, ~~or~~ a jailer or guard employed at a municipal or county jail or by the Texas Department of Corrections, *or a member or employee of the Board of Pardons and Paroles*, where he knows or has been informed the person assaulted is a peace officer, jailer, ~~or~~ guard, *or member or employee of the Board of Pardons and Paroles*:
 - (A) while the peace officer, jailer, ~~or~~ guard, *or member or employee of the Board of Pardons and Paroles* is acting in the lawful discharge of an official duty; or
 - (B) in retaliation for or on account of an exercise of official power or performance of an official duty as a peace officer, jailer, ~~or~~ guard, *or member or employee of the Board of Pardons and Paroles*; or
- (2) to a participant in a court proceeding when he knows or has been informed that the person assaulted is a participant in a court proceeding:
 - (A) while the injured person is in the lawful discharge of official duty; or
 - (B) in retaliation for or on account of the injured person's having exercised an official power or performed an official duty as a participant in a court proceeding.
- (b) The actor is presumed to have known the person assaulted was a peace officer if he was wearing a distinctive uniform indicating his employment as a peace officer.
- (c) An offense under this section is a felony of the first degree.

SECTION 14. Article 6701m-1, Revised Statutes, is amended to read as follows:

Art. 6701m-1. INSCRIPTION ON STATE VEHICLE. There shall be printed upon each side of every automobile, truck or other motor vehicle owned by the State of Texas the word "Texas," followed in letters of not less than two (2) inches high by the title of

the department, bureau, board, commission or official having the custody of such car, and such inscription shall be in a color sufficiently different from the body of the car so that the lettering shall be plainly legible at a distance of not less than one hundred (100) feet, and the official having control thereof shall have such wording placed thereon as prescribed herein, and whoever drives any automobile, truck or other motor vehicle belonging to the State upon the streets of any town or city or upon a highway without such inscription printed thereon shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Provided, however, State-owned vehicles under control and custody of the State Board of Pharmacy, Texas Department of Mental Health and Mental Retardation, the Department of Public Safety, the Texas Department of Corrections, *the Board of Pardons and Paroles*, the Parks and Wildlife Department, the Railroad Commission of Texas, the Texas Alcoholic Beverage Commission, the office of the attorney general's Health Services Providers Integrity and Medicaid Fraud Division, The Banking Department of Texas, the Savings and Loan Department of Texas, the Texas Juvenile Probation Commission, Agencies and Branches of Government for whom appropriations are made under the article of the General Appropriations Act that appropriates money to the legislature, and the Texas Youth Council may be exempt from the requirements of this Act by rule and regulation of the governing bodies of these State agencies or, in the case of the office of the attorney general, by rules and regulations of the attorney general. Such rules and regulations shall specify the primary use to which vehicles exempt from the requirements of this Act are devoted, the purpose to be served by not printing on them the inscriptions required by this Act and such rules and regulations shall not be effective until filed with the Secretary of State. No use of vehicles exempt from the requirements of this Act shall be made except for the legitimate purposes expressly specified in the rules and regulations. If a use not specified in the rules and regulations is made of the exempt vehicles, the penalties prescribed in this Act apply to that use. Whoever drives a vehicle exempted from the requirements of this Act as authorized by this provision shall not be subject to the penalties prescribed in this Act.

SECTION 15. Section 4, Article 37.07, Code of Criminal Procedure, is amended to read as follows:

Sec. 4. (a) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense of which the jury has found the defendant guilty is listed in Section *3g(a)(1)* [~~3f(a)(1)~~], Article 42.12, of this code or if the judgment contains an affirmative finding under Section *3g(a)(2)* [~~3f(a)(2)~~], Article 42.12, of this code, unless the defendant has been convicted of a capital felony the court shall charge the jury in writing as follows:

"Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the sentence imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

"It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

"Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served equals *one-fourth* [~~one-third~~] of the sentence imposed or 15 [~~20~~] years, whichever is less, without consideration of any good conduct time he may earn. If the defendant is sentenced to a term of less than six years, he must serve at least two years before he is eligible for parole. Eligibility for parole does not guarantee that parole will be granted.

"It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if he is sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

"You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant."

(b) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense is punishable as a felony of the first degree, if a prior *conviction has* [~~convictions have~~] been alleged for enhancement of punishment as provided by Section 12.42(b), (c), or (d), Penal Code, or if the offense is a felony not designated as a capital felony or a felony of the first, second, or third degree and the maximum term of imprisonment that may be imposed for the offense is longer than 60 years, unless the offense of which the jury has found the defendant guilty is listed in Section *3g(a)(1)* [~~3f(a)(1)~~], Article 42.12, of this code or the judgment contains an affirmative finding under Section *3g(a)(2)* [~~3f(a)(2)~~], Article 42.12, of this code, the court shall charge the jury in writing as follows:

“Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the sentence imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

“It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

“Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served plus any good conduct time earned equals *one-fourth* [~~one-third~~] of the sentence imposed or 15 [20] years, whichever is less. Eligibility for parole does not guarantee that parole will be granted.

“It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if he is sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

“You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant.”

(c) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense is punishable as a felony of the second or third degree, if a prior conviction has been alleged for enhancement as provided by Section 12.42(a), Penal Code, or if the offense is a felony not designated as a capital felony or a felony of the first, second, or third degree and the maximum term of imprisonment that may be imposed for the offense is 60 years or less, unless the offense of which the jury has found the defendant guilty is listed in Section *3g(a)(1)* [~~3f(a)(1)~~], Article 42.12, of this code or the judgment contains an affirmative finding under Section *3g(a)(2)* [~~3f(a)(2)~~], Article 42.12, of this code, the court shall charge the jury in writing as follows:

“Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the sentence imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

“It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

“Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served plus any good conduct time earned equals *one-fourth* [~~one-third~~] of the sentence imposed. Eligibility for parole does not guarantee that parole will be granted.

“It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if he is sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

“You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant.”

(d) This section does not permit the introduction of evidence on the operation of parole and good conduct time laws.

SECTION 16. The following sections of Article 42.12, Code of Criminal Procedure, are repealed: Section 12a, Section 15(f), Section 15(g), as amended by Chapters 481 and 554, Acts of the 69th Legislature, Regular Session, 1985, Section 15(n), Section 21, and Section 22.

SECTION 17. (a) The change in law made by Section 6 of this Act relating to qualifications required for employment as a parole commissioner does not apply to a parole commissioner whose employment with the Board of Pardons and Paroles began before the effective date of this Act.

(b) The first policy statement required to be filed with the governor's office under Section 3A(q), Article 42.18, Code of Criminal Procedure, as added by Section 4 of this Act, must be filed by the executive director not later than the 60th day after the effective date of this Act.

(c) Except as otherwise provided by this subsection, the changes in law made by Section 4 of this Act by adding Sections 3A(a), (b), and (c) to Article 42.18, Code of Criminal Procedure, relating to the qualifications of board members, do not apply to members of the board in office on the effective date of this Act. If on or after the effective date of this Act, a member is appointed to a new term on the board, the changes in law apply to that member.

SECTION 18. (a) The change in law made by Section 7 of this Act relating to the authority of the Board of Pardons and Paroles to establish tentative parole months for certain prisoners applies to prisoners whether or not they are sentenced before, on, or after the effective date of this Act.

(b) The change in law made by Section 7 of this Act to Section 8(b), Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, applies to a defendant's eligibility for parole only if the defendant is sentenced for an offense committed on or after the effective date of this Act.

(c) The change in law made by Section 7 of this Act to Section 8(c), Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, and amended by Chapter 8, Acts of the 69th Legislature, 3rd Called Session, 1986, effective September 1, 1987, applies to a defendant's eligibility for release on mandatory supervision only if the defendant is sentenced for an offense committed on or after the effective date of this Act.

(d) If a sentence is for an offense committed before the effective date of this Act, the defendant's eligibility for release on parole or mandatory supervision is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

(e) The change in law made by Section 7 of this Act by adding Subsection (d) to Section 8, Article 42.18, Code of Criminal Procedure, as added by Section 2, Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, applies only to a prisoner sentenced to serve consecutive sentences if each sentence in the series is for an offense committed on or after the effective date of this Act. If any sentence in the series is for an offense committed before the effective date of this Act, the prisoner's eligibility for parole is covered by the law in effect when that offense was committed, and the former law is continued in effect for this purpose.

(f) 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 19. (a) The changes in law made by Sections 12 and 13 of this Act apply only to offenses committed on or after the effective date of this Act. For purposes of

his section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 20. This Act takes effect September 1, 1987.

SECTION 21. 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 13, 1987, by a viva-voce vote; and that the Senate concurred in House amendments on May 23, 1987, by the following vote: Yeas 14, Nays 7.

Passed the House, with amendments, on May 15, 1987, by a non-record vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.