

**CHAPTER 10**

**H.B. No. 93**

**AN ACT**

relating to the efficient operation of the state criminal justice and judicial system, including the punishment of offenses, probation and parole, criminal justice services, and the issuance of general obligation bonds for criminal justice facilities; making appropriations.

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

**ARTICLE 1**

**SECTION 1.01.** Subsection (b), Section 8, Article 42.18, Code of Criminal Procedure, as amended by Chapter 652, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(b)(1) A prisoner under sentence of death is not eligible for parole.

(2) If a prisoner is serving a life sentence for a capital felony, the prisoner is not eligible for release on parole until the actual calendar time the prisoner has served, without consideration of good conduct time, equals 35 calendar years.

(3) If a prisoner is serving a sentence for the offenses listed in Subdivision (1)(B), (C), or (D) of Section 3g(a), 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 of the maximum sentence or 15 calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two calendar years.

(4) *Except as provided by Subsection (m) of this section, all [All] other prisoners shall be eligible for release on parole when their calendar time served plus good conduct time equals one-fourth of the maximum sentence imposed or 15 years, whichever is less.*

SECTION 1.02. Section 8, Article 42.18, Code of Criminal Procedure, is amended by adding Subsections (m) and (n) to read as follows:

*(m) A prisoner serving a sentence for which parole eligibility is otherwise determined under Subsection (b)(4) of this section may become eligible for special needs parole at a date earlier than the date calculated under Subsection (b)(4) of this section, as designated by a parole panel under this subsection, if:*

*(1) the prisoner has been identified by the institutional division as being elderly, physically handicapped, mentally ill, terminally ill, or mentally retarded;*

*(2) the prisoner is determined by the parole panel, because of the prisoner's condition and on the basis of a medical evaluation, to no longer constitute a threat to public safety and no longer constitute a threat to commit further offenses; and*

*(3) the pardons and paroles division has prepared for the prisoner a special needs parole plan that ensures appropriate supervision, service provision, and placement.*

*(n) A prisoner diagnosed as mentally ill or mentally retarded may be released under Subsection (m) of this section only if the pardons and paroles division has prepared for the prisoner a special needs parole plan that ensures appropriate supervision, service provision, and placement as approved by the Texas Council on Offenders with Mental Impairments.*

SECTION 1.03. Chapter 614, Health and Safety Code, as added by Chapter 76, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 614.010 to read as follows:

*Sec. 614.010. ADDITIONAL MEMBER. In addition to the members of the council prescribed under Section 614.002, the executive head of the Texas Department on Aging shall serve as a member of the council.*

SECTION 1.04. Chapter 614, Health and Safety Code, as added by Chapter 76, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 614.011 to read as follows:

*Sec. 614.011. ADDITIONAL PILOT PROGRAM. (a) In addition to the pilot program required under Section 614.008, the council may establish a pilot program in a county selected by the council to implement a cooperative community-based alternative system to divert from the state criminal justice system and rehabilitate nonviolent offenders who are identified as being elderly, significantly ill, or physically handicapped and who are not charged with or sentenced for an instant offense that is described in Section 3g, Article 42.12, Code of Criminal Procedure.*

*(b) The council and the Texas Department of Mental Health and Mental Retardation shall collaborate with the Texas Department on Aging, the Texas Rehabilitation Commission, the Department of Human Services, and the Texas Department of Health to develop creative community-based alternatives for elderly, significantly ill, or physically handicapped offenders described in Subsection (a).*

(c) *The council and the Texas Department of Mental Health and Mental Retardation, the Texas Department on Aging, the Texas Rehabilitation Commission, the Department of Human Services, and the Texas Department of Health shall present to the 73rd Legislature a report explaining the results of their collaborative effort, including departmental procedure, policy, or regulation changes, future agency planning, and recommendations for legislation or statutory modification.*

(d) *The program must conform to the report and recommendations made by the council, the Texas Department of Mental Health and Mental Retardation, the Texas Department on Aging, the Texas Rehabilitation Commission, the Department of Human Services, and the Texas Department of Health under Subsection (c).*

(e) *The council may employ and train a case management team to carry out the purposes of the program and to coordinate the joint efforts of agencies represented on the council.*

(f) *The agencies represented on the council shall perform duties and offer services as required by the council to further the purposes of the pilot program and the council.*

SECTION 1.05. Chapter 614, Health and Safety Code, as added by Chapter 76, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 614.012 to read as follows:

*Sec. 614.012. ADDITIONAL DUTIES. The council shall perform the same duties for an offender identified as being elderly, significantly ill, or physically handicapped as the council is required to perform under this chapter for offenders with mental impairments.*

SECTION 1.06. This article takes effect December 1, 1991.

## ARTICLE 2

SECTION 2.01. Section 495.001, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 495.001. **AUTHORITY TO CONTRACT.** (a) The board may contract with a private vendor or with the commissioners court of a county for the financing, construction, operation, maintenance, or management of a secure correctional facility.

(b) A facility operated, maintained, and managed under this subchapter by a private vendor or county must:

- (1) hold not more than an average daily population of 1,000 [500] inmates;
- (2) comply with federal constitutional standards and applicable court orders; and
- (3) receive and retain, as an individual facility, accreditation from the American Correctional Association.

(c) A facility authorized by this subchapter may be located on private land or on land owned by the state or a political subdivision of the state. The board may accept land donated for that purpose.

(d) The population requirements imposed by Subsection (b)(1) do not apply to a facility that is under construction or completed before April 14, 1987.

(e) The board shall give priority to entering contracts under this subchapter that will provide the institutional division with secure regionally based correctional facilities designed to successfully reintegrate inmates into society through preparole, prerelease, work release, and prison industries programs.

(f) *Notwithstanding Subsection (b)(1), a facility that before December 1, 1991, was operated, maintained, and managed under this subchapter by a private vendor or county may not hold more than an average daily population of 500 inmates, unless the commissioners court of the county in which the facility is located expresses in a resolution on the subject that the limit on population imposed by this subsection should not apply to the facility.*

SECTION 2.02. Subchapter A, Chapter 495, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 495.007 to read as follows:

*Sec. 495.007. LIMITATION. The board may not enter into contracts under this subchapter for more than 4,000 beds.*

SECTION 2.03. Section 495.003(c), Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(c) In addition to meeting the requirements specified in the requests for proposals, a proposal must:

- (1) provide for regular, on-site monitoring by the institutional division;
- (2) acknowledge that payment by the state is subject to the availability of appropriations;
- (3) provide for payment of a maximum amount per biennium;
- (4) offer a level and quality of programs at least equal to those provided by state-operated facilities that house similar types of inmates and at a cost that provides the state with a savings of not less than 10 percent of the cost of housing inmates in similar facilities and providing similar programs to those types of inmates in state-operated facilities;
- (5) permit the state to terminate the contract for cause, including as cause the failure of the private vendor or county to meet the conditions required by this subchapter and other conditions required by the contract;
- (6) provide that cost adjustments may be made only once each *fiscal year* [biennium], to take effect at the beginning of the next *fiscal year* [biennium];
- (7) have an initial contract term of not more than three years, with an option to renew for additional periods of two years;
- (8) if the proposal includes construction of a facility, contain a performance bond approved by the board that is adequate and appropriate for the proposed contract;
- (9) provide for assumption of liability by the private vendor or county for all claims arising from the services performed under the contract by the private vendor or county;
- (10) provide for an adequate plan of insurance for the private vendor or county and its officers, guards, employees, and agents against all claims, including claims based on violations of civil rights, arising from the services performed under the contract by the private vendor or county;
- (11) provide for an adequate plan of insurance to protect the state against all claims arising from the services performed under the contract by the private vendor or county and to protect the state from actions by a third party against the private vendor or county, its officers, guards, employees, and agents as a result of the contract;
- (12) provide plans for the purchase and assumption of operations by the state in the event of the bankruptcy of the private vendor or inability of the county to perform its duties under the contract; and
- (13) contain comprehensive standards for conditions of confinement.

SECTION 2.04. (a) Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 13.11 to read as follows:

*Sec. 13.11. ADDITIONAL REPORTS ON MEDICAL COSTS BY THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE. (a) In addition to the reports required by Section 13.03 of this article, at least quarterly the Texas Department of Criminal Justice shall perform a cost analysis to determine for each unit in the institutional division the average daily medical cost per inmate confined in the unit. The department shall file a report of the analysis with the State Auditor.*

*(b) In determining average daily medical cost per inmate, the department shall assign costs for the following factors:*

(1) *staff costs, including salaries and fringe benefits for physicians, nurses, dentists, pharmacists, physician assistants, dental assistants, dental hygienists, health administrators, x-ray and laboratory technicians, medication aides, psychologists, social workers, therapists, counselors, medical record technicians, clerks, secretaries, emergency medical technicians, and paramedics;*

(2) *drugs, medical supplies, x-ray tests and supplies, and laboratory tests and supplies;*

(3) *clerical forms and office supplies; and*

(4) *medical equipment and ambulance transportation.*

(c) *The commission shall conduct a medical cost comparison review under Section 13.05 of this article for each unit of the institutional division for which a report is filed with the State Auditor under Subsection (a) of this section other than a unit that is a regional medical center, hospital, psychiatric facility, or geriatric facility. If the commission determines that at least the same quality and quantity of medical service can be purchased at a savings of more than 10 percent, the commission shall notify the department of that fact as required by Section 13.05(b) of this article, and the department shall take the actions required by Section 13.06 of this article.*

(b) The Texas Department of Criminal Justice shall file the first reports required by Section 13.11, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as added by this section, not later than January 1, 1992.

SECTION 2.05. This article takes effect December 1, 1991.

### ARTICLE 3

SECTION 3.01. Section 4(a), Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a)(1) The authority may issue up to \$500 million in general obligation bonds and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping new facilities or for major repair or renovation of existing facilities, corrections institutions, including youth corrections institutions, and mental health and mental retardation institutions.

(2) The authority may issue up to \$400 million in general obligation bonds, in addition to the amount authorized by Subsection (a)(1) of this section, and distribute bond proceeds to appropriate agencies for the same uses as authorized by Subsection (a)(1) and to the Department of Public Safety for the purchase, repair, and renovation of the Austin Independent School District administration building adjacent to the Department of Public Safety state headquarters, for the purpose of expanding the department's state headquarters' central office building.

(3) *The authority may issue up to \$1.055 billion in general obligation bonds, in addition to the amounts authorized by Subsections (a)(1) and (a)(2) of this section, and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping new prisons and substance abuse felony punishment facilities to confine criminals and youth corrections institutions, for major repair or renovation of existing prison facilities and youth corrections institutions, and for the acquisition of, major repair to, or renovation of other facilities for use as state prisons, substance abuse felony punishment facilities, or facilities in which pilot programs established as provided by Section 614.011, Health and Safety Code, are conducted.*

(4) The bond proceeds may be used to refinance an existing obligation for a purpose described by this subsection. The authority may issue general obligation bonds authorized under Subsection (a)(1) or (a)(2) of this section to refund revenue bonds issued under this Act.

SECTION 3.02. The Texas Public Finance Authority may not issue bonds under Subdivision (3), Subsection (a), Section 4, Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), as amended by this

article, before September 1, 1993, unless the comptroller has determined that the total amount of debt service that the state will be required to pay during the biennium ending September 1, 1993, on those bonds and all other bonds previously issued under Subdivision (3), Subsection (a), Section 4, will not exceed \$46 million. On request of the comptroller, the authority shall provide the comptroller with information the comptroller considers necessary to make that determination. The comptroller shall submit the determination in writing to the authority and the bond review board.

SECTION 3.03. This article takes effect on the date on which the constitutional amendment proposed by S.J.R. No. 4, 72nd Legislature, 1st Called Session, 1991, takes effect. If that amendment is not approved by the voters, this article has no effect.

#### ARTICLE 4

SECTION 4.01. Chapter 751, Government Code, as added by Chapter 38, Acts of the 72nd Legislature, Regular Session, 1991, and amended by S.B. No. 3, Acts of the 72nd Legislature, 1st Called Session, 1991, is amended by adding Section 751.044 to read as follows:

*Sec. 751.044. FEDERAL GRANTS FOR CRIMINAL JUSTICE AGENCIES. The office shall monitor and identify federal grants that are available to state and local criminal justice agencies and assist the agencies in applying for and obtaining those grants.*

SECTION 4.02. This article takes effect December 1, 1991.

#### ARTICLE 5

SECTION 5.01. Chapter 38, Penal Code, is amended by adding Section 38.112 to read as follows:

*Sec. 38.112. PROHIBITED SUBSTANCES IN CORRECTIONAL FACILITIES. (a) A person commits an offense if the person provides an alcoholic beverage, controlled substance, or dangerous drug to an inmate of a municipal or county jail, except on the prescription of a physician.*

*(b) A person commits an offense if the person takes a controlled substance or dangerous drug into a municipal or county jail or a correctional facility authorized by Subchapter F, Chapter 351, Local Government Code, except for delivery to a jail or correctional facility warehouse, pharmacy, or physician.*

*(c) A person commits an offense if the person provides an alcoholic beverage, controlled substance, or dangerous drug to an inmate of the institutional division, except on the prescription of a physician.*

*(d) A person commits an offense if the person takes a controlled substance or dangerous drug into a correctional facility authorized by Chapter 495, Government Code, or into the confines of property owned by the institutional division and used or occupied by inmates, except for delivery to an institutional division or correctional facility warehouse, pharmacy, or physician.*

*(e) A person commits an offense if the person possesses a controlled substance or dangerous drug while in the confines of property belonging to the institutional division.*

*(f) It is an affirmative defense to prosecution under Subsection (e) of this section that the person possessed the controlled substance or dangerous drug pursuant to a prescription issued by a practitioner or while delivering the substance or drug to an institutional division warehouse, pharmacy, or physician.*

*(g) In this section:*

*(1) "Alcoholic beverage" has the meaning assigned by Section 1.04(1), Alcoholic Beverage Code.*

*(2) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.*

(3) "Dangerous drug" has the meaning assigned by Section 483.001, Health and Safety Code.

(4) "Institutional division" means the institutional division of the Texas Department of Criminal Justice.

(5) "Practitioner" has the meaning assigned by Section 481.002, Health and Safety Code.

(6) "Prescription" has the meaning assigned by Section 481.002, Health and Safety Code.

(h) An offense under this section is a felony of the third degree.

SECTION 5.02. Section 500.004, Government Code, is repealed.

SECTION 5.03. Section 361.082, Local Government Code, is repealed.

SECTION 5.04. The repeal by this article of Section 361.082, Local Government Code, and Section 500.004, Government Code, does not apply to an offense committed under those sections before the effective date of the repeal. An offense committed before that date is covered by those sections as they existed on the date on which the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5.05. This article takes effect October 1, 1991.

## ARTICLE 6

SECTION 6.01. Article 42.12, Code of Criminal Procedure, is amended by adding Section 28 to read as follows:

*Sec. 28. PROGRAM TO ASSESS AND ENHANCE PROBATIONER'S EDUCATIONAL AND VOCATIONAL SKILLS.* (a) A community supervision and corrections department, with the assistance of public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities, may establish a developmental program for a probationer under the supervision of the department on the basis of information developed under Section 11(g) of this article, as added by Chapter 260, Acts of the 71st Legislature, Regular Session, 1989.

(b) The developmental program may provide the probationer with the educational and vocational training necessary to:

(1) meet the average skill level required under Section 11(g) of this article, as added by Chapter 260, Acts of the 71st Legislature, Regular Session, 1989; and

(2) maintain employment while under the supervision of the department, to lessen the likelihood that the probationer will commit additional offenses.

(c) To decrease expenditures by community supervision and corrections departments for the educational and vocational skills assessment and enhancement program established under this section, the Texas Department of Commerce shall provide information to community supervision and corrections departments, public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities for obtaining financial assistance through the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) and other applicable programs of public or private entities.

SECTION 6.02. Article 42.18, Code of Criminal Procedure, is amended by adding Section 27 to read as follows:

*Sec. 27. PROGRAM TO ASSESS AND ENHANCE EDUCATIONAL AND VOCATIONAL SKILLS.* (a) The pardons and paroles division, with the assistance of public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities, may establish a developmental program on the basis of information developed under Section 8(k) of this article for an inmate to be released to the supervision of the division.

(b) The developmental program may provide the inmate with the educational and vocational training necessary to:

(1) meet the average skill level required under Section 8(k) of this article; and  
 (2) acquire employment while under the supervision of the pardons and paroles division, to lessen the likelihood that the inmate will return to the institutional division.

(c) To decrease state expenditures for the educational and vocational skills assessment and enhancement program established under this section, the Texas Department of Commerce shall provide information to the pardons and paroles division, public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities for obtaining financial assistance through the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) and other applicable programs of public or private entities.

(d) The pardons and paroles division may establish a developmental program similar to the program described by Subsection (a) of this section for inmates released from the institutional division who are not to be supervised by the division.

SECTION 6.03. This article takes effect December 1, 1991.

## ARTICLE 7

SECTION 7.01. Section 1, Article 38.33, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. The court shall order that a defendant who is convicted of a felony or a misdemeanor offense that is punishable by confinement in jail have ~~place~~ a thumbprint ~~[fingerprint]~~ of the defendant's right thumb rolled ~~[index finger]~~ legibly on the judgment or the docket sheet in the case. The court shall order a defendant who is placed on probation under Section 5 ~~[3d or 10A]~~ of Article 42.12, Code of Criminal Procedure, for an offense described by this section to have ~~place~~ a thumbprint ~~[fingerprint]~~ of the defendant's right thumb rolled ~~[index finger]~~ legibly on the order placing the defendant on probation. *If the defendant does not have a right thumb, the defendant must have a thumbprint of the defendant's left thumb rolled legibly on the judgment, order, or docket sheet. The defendant must have a fingerprint of the defendant's index finger rolled legibly on the judgment, order, or docket sheet if the defendant does not have a right thumb or a left thumb.* The judgment, order, or docket sheet must contain a statement that describes from which thumb or finger the print was taken, unless a rolled 10-finger print set was taken. A clerk or bailiff of the court or other person qualified to take fingerprints shall take the thumbprint or fingerprint, either by use of the ink-rolled print method or by use of a live-scanning device that prints the thumbprint or fingerprint image on the judgment, order, or docket sheet.

SECTION 7.02. Section 1, Article 42.01, Code of Criminal Procedure, as amended by Section 4.04, Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 1. A judgment is the written declaration of the court signed by the trial judge and entered of record showing the conviction or acquittal of the defendant. The sentence served shall be based on the information contained in the judgment. The judgment should reflect:

1. The title and number of the case;
2. That the case was called and the parties appeared, naming the attorney for the state, the defendant, and the attorney for the defendant, or, where a defendant is not represented by counsel, that the defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel;
3. The plea or pleas of the defendant to the offense charged;
4. Whether the case was tried before a jury or a jury was waived;
5. The submission of the evidence, if any;
6. In cases tried before a jury that the jury was charged by the court;
7. The verdict or verdicts of the jury or the finding or findings of the court;



8. In the event of a conviction that the defendant is adjudged guilty of the offense as found by the verdict of the jury or the finding of the court, and that the defendant be punished in accordance with the jury's verdict or the court's finding as to the proper punishment;

9. In the event of conviction where death or any nonprobated punishment is assessed that the defendant be sentenced to death, a term of imprisonment, or to pay a fine, as the case may be;

10. In the event of conviction where any probated punishment is assessed that the imposition of sentence is suspended and the defendant is placed on probation, setting forth the punishment assessed, the length of probation, and the probationary terms and conditions;

11. In the event of acquittal that the defendant be discharged;

12. The county and court in which the case was tried and, if there was a change of venue in the case, the name of the county in which the prosecution was originated;

13. The offense or offenses for which the defendant was convicted;

14. The date of the offense or offenses and degree of offense for which the defendant was convicted;

15. The term of sentence;

16. The date judgment is entered;

17. The date sentence is imposed;

18. The date sentence is to commence and any credit for time served;

19. The terms of any order entered pursuant to Article 42.08 of this code that the defendant's sentence is to run cumulatively or concurrently with another sentence or sentences;

20. The terms of any plea bargain;

21. Affirmative findings entered pursuant to Subdivision (2) of Subsection (a) of Section 3g of Article 42.12 of this code;

22. The terms of any fee payment ordered under Articles 37.072 and 42.151 of this code;

23. The defendant's *thumbprint* [~~finger~~print] taken in accordance with Article 38.33 of this code;

24. In the event that the judge orders the defendant to repay a reward or part of a reward under Articles 37.073 and 42.152 of this code, a statement of the amount of the payment or payments required to be made; and

25. In the event that the court orders restitution to be paid to the victim of a felony, a statement of the amount of restitution ordered and:

(A) the name of the victim and the permanent mailing address of the victim at the time of the judgment; or

(B) if the court determines that the inclusion of the victim's name and address in the judgment is not in the best interest of the victim, the name and address of a person or agency that will accept and forward restitution payments to the victim.

SECTION 7.03. Sections 411.042(b) and (d), Government Code, as amended by H.B. No. 11, Acts of the 72nd Legislature, 1st Called Session, 1991, are amended to read as follows:

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons *arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated* [~~convicted of a felony within the state and of all well-known and habitual criminals~~];

(2) collect information concerning the number and nature of offenses *reported or* known to have been committed in the state and the legal steps taken in connection with

the offenses, and other information useful in the study of crime and the administration of justice, including a statistical breakdown of those offenses in which family violence was involved;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state; and

(4) cooperate with *identification and crime records* bureaus in other states and the United States Department of Justice.

(d) The department may charge each *person and charge each entity or [state] agency* that is not primarily a criminal justice agency a fee for processing inquiries for criminal history records and other information regarding a person. *A person, entity, or [An] agency that receives information must be entitled to receive the information under state or federal statutes, rules, regulations, or case law.* The department may charge:

(1) a fee of \$10 for each inquiry for criminal history records information on a person that is processed only on the basis of the person's name, unless the inquiry is submitted electronically or by ~~on~~ magnetic media, in which *case [event]* the fee is \$1;

(2) a fee of \$15 for each inquiry for criminal history records information on a person that is processed on the basis of a fingerprint comparison search; and

(3) actual costs for processing all other information inquiries.

SECTION 7.04. Section 411.042, Government Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

*(e) The department shall deposit all fees collected under this section in the operators and chauffeurs license fund.*

*(f) The department may keep any record or other information submitted to the department under this section, unless otherwise prohibited by law.*

*(g) The department may adopt reasonable rules under this section relating to:*

*(1) law enforcement information systems maintained by the department;*

*(2) the collection, maintenance, and correction of records;*

*(3) reports of criminal history information submitted to the department;*

*(4) access to criminal history information maintained by the department; and*

*(5) the type and format of information and the means of identification of a requesting person, entity, or agency required by the department as a condition of releasing criminal history records information.*

SECTION 7.05. Chapter 60, Code of Criminal Procedure, is amended by adding Articles 60.10, 60.11, 60.12, 60.13, 60.14, 60.15, 60.16, and 60.17 to read as follows:

*Art. 60.10. EXPEDITING IMPLEMENTATION. The requirements set out in Articles 60.11 through 60.17 of this code are established in order to expedite the implementation and continued improvement of the information systems established under this chapter.*

*Art. 60.11. OPERATION DATE. The criminal justice information system must be in operation by a date not later than January 1, 1993, as determined by the Texas Department of Criminal Justice and the Department of Public Safety.*

*Art. 60.12. FINGERPRINT AND ARREST INFORMATION IN COMPUTERIZED SYSTEM. (a) The Department of Public Safety shall, when a jurisdiction transmits fingerprints and arrest information by a remote terminal accessing the statewide automated fingerprint identification system, use that transmission either to create a permanent record in the criminal justice information system or to create a temporary arrest record to be maintained by the department until the department receives and processes the physical copy of the arrest information.*

*(b) The Department of Public Safety shall make available to a criminal justice agency making a background criminal inquiry any information contained in a temporary arrest record maintained by the department, including a statement that a physical copy of the arrest information was not available at the time the information was entered in the system.*

*Art. 60.13. CONTRACTS FOR SOFTWARE DEVELOPMENT. If the Department of Public Safety is unable to hire qualified, full-time computer programmers to develop software for its computers, and the inability to hire the programmers will delay the development and implementation of the criminal justice information system established under this chapter, the department shall enter into contracts for the development of necessary software for the implementation of the criminal justice information system, based on open architecture readily accessible to other local and state branches of the criminal justice system.*

*Art. 60.14. ALLOCATION OF GRANT PROGRAM MONEY FOR CRIMINAL JUSTICE PROGRAMS. An agency of the state, before allocating money to a county from any federal or state grant program for the enhancement of criminal justice programs, shall certify that the county has taken or will take, using all or part of the allocated funds, all action necessary to provide the Texas Department of Criminal Justice and the Department of Public Safety any criminal history records maintained by the county in the manner specified for purposes of those departments.*

*Art. 60.15. TIMETABLE FOR SYSTEM RECORDS. The Department of Public Safety shall establish a timetable and employ temporary personnel, if necessary, to ensure that all disposition records received by the department on or before June 1, 1992, are entered into the criminal justice information system by a date not later than September 1, 1992.*

*Art. 60.16. REPORT. (a) The council shall, with the cooperation of the Department of Public Safety and the Texas Department of Criminal Justice, submit a report to the governor and the Legislative Criminal Justice Board no later than September 30, 1992, that proposes improvements to the criminal justice information system to take place during the biennium beginning September 1, 1993. The process of developing the report shall include a minimum of three regional public hearings to allow state and local law enforcement officers, prosecutors, and courts personnel to provide input on system development and design.*

*(b) The report must include:*

*(1) a proposed timetable and cost estimate for each recommended improvement;*

*(2) a plan to increase, if necessary, the level of detail contained in information uniformly available from the criminal justice information system, including information on parole, probation, and corrections classification levels and special programs for each individual in the criminal justice system;*

*(3) a plan to link, to the greatest extent practical, the criminal justice information system and the incident based reporting system, as implemented by the bureau of identification and records; and*

*(4) a plan to efficiently coordinate, to the extent practical, all county criminal history record systems with the criminal justice information system.*

*Art. 60.17. COORDINATION OF IMPLEMENTATION PROCESS. (a) The council, the Department of Information Resources, the Department of Public Safety, and the Texas Department of Criminal Justice shall establish a working group to expedite the implementation and continued improvement of the criminal justice information system. The council shall coordinate the activities of the working group.*

*(b) The working group shall:*

*(1) identify the status of the implementation of the criminal justice information system;*

*(2) determine from the text of this chapter and the legislative history of the enactment and amendments to this chapter the strategic goals of the criminal justice information system;*

*(3) translate strategic goals into specific project goals and objectives and shall give priorities to, schedule completion dates for, and identify the resources necessary to complete those goals and objectives and report their findings to the Legislative Criminal Justice Board not later than January 1, 1992.*

SECTION 7.06. Article 42.13, Code of Criminal Procedure, is amended by adding Section 13 to read as follows:

*Sec. 13. PRETRIAL RELEASE REPORT. The Community Justice Assistance Division shall collect statistical information on the use of bail bonds, personal bonds and other types of pretrial release in each county of the state. The information shall be collected on an annual basis and analyzed to determine the utilization rate for each type of release method. The Division shall file a report of its findings with the Criminal Justice Division of the Governor's Office, the Lieutenant Governor, the Speaker of the House of Representatives, and the members of the Legislature not later than December 31 of each year.*

SECTION 7.07. This article takes effect December 1, 1991.

#### ARTICLE 8

SECTION 8.01. Section 16, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

*(h) Notwithstanding the provisions of Subsection (a) of this section, a court may order a defendant who is not employed to perform up to 32 hours of work probation under this section and may direct the defendant to use the remaining hours of the week to seek employment.*

SECTION 8.02. Section 8, Article 42.03, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

*(f) Notwithstanding the provisions of Subsection (d) of this section, a court may order a defendant who is not employed to perform up to 32 hours of community service under this section and may direct the defendant to use the remaining hours of the week to seek employment.*

SECTION 8.03. This article takes effect December 1, 1991.

#### ARTICLE 9

SECTION 9.01. Notwithstanding the provisions of Section 1(b), Chapter 490, Acts of the 72nd Legislature, Regular Session, 1991, the agencies listed in that section shall make the report described by that section to the governor and the legislature not later than December 1, 1992.

SECTION 9.02. Section 1.131, Article 1, Chapter 785, Acts of the 71st Legislature, Regular Session, 1989 (Article 4413(401), Vernon's Texas Civil Statutes), is transferred to Subchapter C, Chapter 501, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, designated as Section 501.0931, and amended to read as follows:

Sec. 501.0931 [1.131]. IN-PRISON THERAPEUTIC COMMUNITIES. (a) The institutional division shall establish a program to confine and treat in in-prison therapeutic communities inmates determined by the division to have a history of drug or alcohol abuse and to need drug or alcohol abuse treatment. The program is in addition to existing educational and substance abuse treatment services provided to inmates.

(b) The institutional division and the Texas Commission on Alcohol and Drug Abuse shall jointly develop methods of screening and assessing inmates to determine their need for treatment for alcohol or drug abuse problems. The institutional division shall screen for alcohol and drug abuse each inmate who is transferred to the custody of the institutional division. The institutional division shall assess the inmates who are identified as having a substance abuse problem and shall determine the severity of the problem and the need for treatment.

(c) The program must consist of a three-month and a six-month treatment program. The institutional division shall make a referral of an inmate to a program based on the severity of the substance abuse problem, eligibility of the inmate, and the availability of treatment space. An inmate who has not more than six months remaining in the inmate's sentence before the earliest date the inmate is eligible for parole is eligible for the three-month program. An inmate who has not more than one year remaining in the

inmate's sentence before the earliest date the inmate is eligible for parole is eligible for the six-month program.

(d) The institutional division shall separate inmates who participate in the three-month program from inmates who participate in the six-month program and shall separate inmates participating in the program from the general population of the division and house the inmates in discrete units or areas within units, except during the diagnostic process or at other times determined to be necessary by the division for medical or security purposes.

(e) The program provided under this section must contain highly structured work, education, and treatment schedules, a clearly delineated authority structure, and well-defined goals and guidelines. The institutional division shall establish a graded system of rewards and sanctions for inmates who participate in the program.

(f) The institutional division shall contract through the Texas Commission on Alcohol and Drug Abuse to provide qualified professionals to implement the program. For purposes of this subsection, a "qualified professional" is a person who:

(1) is a certified alcohol and drug abuse counselor;

(2) is a certified social worker or advanced clinical practitioner and who has at least two years of experience in chemical dependency counseling; or

(3) is a licensed professional counselor, physician, or psychologist and who has at least two years of experience in chemical dependency counseling.

(g) The institutional division shall adopt rules of conduct for inmates participating in the program.

(h) If the institutional division determines that an inmate is not complying with the rules of the program, the institutional division may end the inmate's participation in the program and transfer the inmate out of the program.

(i) The institutional division shall provide for housing participants in the program:

(1) at least 450 beds for male inmates and 50 beds for female inmates in fiscal year 1992 [~~1994~~];

(2) at least 900 beds for male inmates and 100 beds for female inmates in fiscal year 1993 [~~1995~~];

(3) at least 1,300 beds for male inmates and 200 beds for female inmates in fiscal year 1994 [~~1996~~]; and

(4) at least 1,700 beds for male inmates and 300 beds for female inmates in fiscal year 1995 [~~1997~~] and each fiscal year after that year.

(j) The department shall require an inmate who participates in a treatment program to participate in a drug or alcohol abuse after-care program as a condition of parole after the inmate is released from the institutional division.

SECTION 9.03. Notwithstanding the provisions of Section 4(a), Chapter 490, Acts of the 72nd Legislature, Regular Session, 1991, the Texas Commission on Alcohol and Drug Abuse shall establish the programs described by that section not later than March 1, 1992.

SECTION 9.04. Notwithstanding the provisions of Section 5, Chapter 490, Acts of the 72nd Legislature, Regular Session, 1991, that Act takes effect December 1, 1991.

SECTION 9.05. This article takes effect immediately.

## ARTICLE 10

SECTION 10.01. Section 10, Article 42.13, Code of Criminal Procedure, is amended by adding Subsections (d) and (e) to read as follows:

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

*(e) The division shall hold a public meeting required by Subsection (a) of this section in the county in which the facility on which a proposed action is to be taken is located, at a site as close as practicable to the facility.*

SECTION 10.02. Section 25(c), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(c) The pardons and paroles division may not establish, enter into a contract for a community-based facility, ~~or~~ change the use of a *community-based facility*, ~~or~~ significantly increase the capacity of a community-based facility, *or increase the capacity of a community-based facility to more than 500 residents, regardless of whether that increase is significant*, unless the pardons and paroles division provides notice of the proposed action and a hearing on the issues in the same manner required of the community justice assistance division under Section 10, Article 42.13, of this code before the division takes an action under Section 5 of that article. This subsection applies to any residential facility that the pardons and paroles division establishes or contracts for under this article, under Subchapter C, Chapter 497 [496], Government Code, or under Subchapter A, Chapter 499 [498], Government Code.

SECTION 10.03. This article takes effect December 1, 1991.

#### ARTICLE 11

SECTION 11.01. Subsection (a), Section 499.071, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(a) The board shall develop, adopt, and enforce an allocation formula that fairly and equitably allocates to each county or group of counties served by a community corrections and supervision department the number of institutional division admissions allocated to the county or counties until sufficient capacity is available in the institutional division. In devising the formula, the board shall consider relevant factors for each county or group of counties served by a department and shall assign weights to those factors as determined appropriate by the board. The factors shall include but are not limited to:

(1) the percentage of prison admissions for the entire state that were used by the county or counties in the preceding 12 months;

(2) the percentage of the state's violent index crime that occurred in the county or counties in the preceding 12 months;

(3) the percentage of the state's total index crime that occurred in the county or counties in the preceding 12 months;

(4) the percentage of the state's total arrests under Chapter 481, Health and Safety Code, that occurred in the county or counties in the preceding 12 months;

(5) the percentage of the state's population residing in the county or counties; ~~and~~

(6) the percentage of the state's total unemployment in the county or counties; *and*

(7) *the percentage of all defendants serving sentences for felonies who were paroled from the institutional division, a jail in this state, a federal correctional institution, or a jail or correctional institution in another state in the preceding 12 months and who were released to reside in the county or counties.*

SECTION 11.02. Chapter 499, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Subchapter F to read as follows:

#### SUBCHAPTER F. PROCEDURES FOR REDUCING COUNTY JAIL BACKLOG

Sec. 499.121. *LEGISLATIVE DECLARATION; MANDAMUS.* (a) *The legislature declares that until September 1, 1995, the institutional division shall continue to perform its duty to accept inmates only as provided by the allocation formula established under Section 499.071.*

(b) *The legislature declares that until September 1, 1995, a county shall continue to perform its duty to confine and maintain under suitable conditions and at the county's own expense each inmate eligible for transfer from the county to the institutional division, until the date the inmate is actually accepted into custody by*

*the institutional division. This subsection does not take effect if the County of Nueces et al. v. Texas Board of Corrections et al. in the 250th Judicial District Court of Travis County, Texas, Cause No. 452,071 and Harris County, Texas v. the State of Texas, et al. in the 126th District Court of Travis County, Texas, Cause No. 475,468 are settled by written agreement on or before the 31st day after the effective date of this article.*

*(c) The legislature declares that on and after September 1, 1995, the institutional division has a duty to accept, not later than the 45th day after the date on which all processing required for transfer has been completed, each inmate confined in a county jail while under an order of commitment to the institutional division.*

*(d) The duties provided by this subchapter may be enforced by an action in mandamus.*

**Sec. 499.122. INMATE COUNT.** *The Commission on Jail Standards shall analyze monthly the population of each jail in this state that is the jail for a qualifying county and determine the number of inmates confined in the jail who are awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom all paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer have been completed. The commission may not consider in determining the population of the jail under this section any inmate who is in the jail after having been transferred from another jail and for whom the commission has made payment under this subchapter.*

**Sec. 499.123. PAYMENT.** *(a) Not later than the 32nd day after the effective date of this subchapter, the Commission on Jail Standards shall determine for each jail in this state that is the jail for a qualifying county the number of inmates confined in the jail on April 1, 1991, who were awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer had been completed on that date.*

*(b) A qualifying county is entitled to payment from the Commission on Jail Standards as compensation to the county for confining the number of inmates determined as ready for transfer under Subsection (a) at an amount per inmate to be determined by dividing into \$11.5 million the total number of inmates in jails that are the jails for qualifying counties under Subsection (a) confined by qualifying counties. The commission shall make the payment under this subsection on or before January 15, 1992.*

*(c) Not later than September 10, 1993, the Commission on Jail Standards shall determine for each jail in this state that is the jail for a qualifying county the number of inmates confined in the jail on September 1, 1993, who were awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer had been completed, as determined under Section 499.122, on that date.*

*(d) A qualifying county is entitled to payment from the Commission on Jail Standards as compensation to the county for confining the number of inmates determined as ready for transfer under Subsection (c) at an amount per inmate to be determined by dividing the total number of inmates in county jails that are the jails for qualifying counties under Subsection (c) confined by qualifying counties into \$11.5 million. The commission shall make the payment under this subsection on or before January 15, 1994.*

**Sec. 499.124. EMERGENCY OVERCROWDING RELIEF.** *(a) From the effective date of this subchapter until August 31, 1993, for each month in which the number of inmates confined in a jail that is the jail for a qualifying county who are awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer have been completed, as determined under Section 499.122, is greater than 50*

percent of the number of such inmates confined in the jail on April 1, 1991, as determined under Section 499.123, the Commission on Jail Standards shall pay to a qualifying county for each inmate in excess of 50 percent but less than or equal to 210 percent of the April 1, 1991, number for each day of confinement the sum of \$20, and for each inmate in excess of 210 percent of the April 1, 1991, number for each day of confinement the sum of \$30.

(b) From September 1, 1993, until September 1, 1995, for each month in which the number of inmates confined in a jail that is the jail for a qualifying county who are awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer have been completed, as determined under Section 499.122, is greater than 25 percent of the number of such inmates confined in the jail on April 1, 1991, as determined under Section 499.123, the Commission on Jail Standards shall pay to a qualifying county for each inmate in excess of 25 percent but less than or equal to 210 percent of the April 1, 1991, number for each day of confinement the sum of \$20, and for each inmate in excess of 210 percent of the April 1, 1991, number for each day of confinement the sum of \$30.

Sec. 499.125. **TRANSFER OF FELONY BACKLOG.** (a) If a state or federal court determines that conditions in a county jail are unconstitutional, and if on or after October 1, 1991, the percentage of inmates in the jail awaiting transfer to the institutional division is 20 percent or more of the total number of inmates in the jail, the commission shall transfer inmates from the jail to an appropriate jail, detention center, work camp, or correctional facility, but only to the extent necessary to bring the county into compliance with court orders or to reduce the percentage of inmates in the jail awaiting transfer to the institutional division to less than 20 percent of the total number of inmates in the jail.

(b) The Commission on Jail Standards is liable to counties for payment of the costs of transportation for and maintenance of transferred inmates. Costs paid to a county shall be paid into the treasury of the county operating the facility receiving the inmates. The costs for maintenance of an inmate for which the commission is liable under this section are:

(1) the actual costs, as determined by the agreement between the board and the officer or governing body authorized by law to enter into contracts, but only if *Harris County, Texas v. the State of Texas, et al. in the 126th District Court of Travis County, Texas, Cause No. 475,468* is settled by written agreement on or before the 31st day after the effective date of this subchapter; or

(2) if the suit described by Subdivision (1) of this subsection is not settled within the period specified by the subdivision, for each inmate for each day the first \$20 of actual costs and one-half of costs that are in excess of \$20, with the transferring county liable to the operators of the receiving facility for all costs not paid by the state.

(c) If the board determines that a county is not reasonably utilizing its available certified jail beds, the payments authorized by this section shall be withheld to the extent necessary to equal the cost of the unutilized beds.

Sec. 499.126. **DEFINITION.** (a) In this subchapter, "qualifying county" means a county that:

(1) on or after the effective date of this subchapter does not initiate or become a party to a suit against the state or a state agency or state official, the subject of which is the reimbursement of the county for the confinement of inmates in the county jail who are awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision; and

(2) if, before the effective date of this subchapter, it was a party to a suit in state court described by Subdivision (1), has before the 31st day after the effective date of this subchapter:



(A) had the county's suit vacated and dismissed by the court;

(B) had the county's suit abated by the court, by entry of an abatement order that specifically provides that:

(i) the suit may not be reactivated except before September 1, 1997, and except on a finding by the court that the state has substantially failed to perform a duty imposed under this subchapter;

(ii) the county is barred from any claim for reimbursement for the cost of confining inmates on and after the effective date of this subchapter and until September 1, 1995, other than reimbursement specified in this subchapter; and

(iii) if the suit is not reactivated before September 1, 1997, the court shall vacate and dismiss the suit on that date; or

(C) had the county's suit settled by written agreement.

(b) For the purposes of this section, a court retains jurisdiction over a case in which the court has entered an abatement order during the period in which the case is abated.

SECTION 11.03. Section 498.002, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 498.002. CLASSIFICATION AND RECLASSIFICATION. [(a)] The institutional division shall classify each inmate as soon as practicable on the inmate's arrival at the division and, subject to the requirements of Section 498.005, shall reclassify the inmate as circumstances warrant. Each inmate must be classified according to the inmate's conduct, obedience, industry, and criminal history. The director of the institutional division shall maintain a record on each inmate showing each classification and reclassification of the inmate with the date and reason for each classification or reclassification. *The institutional division may classify each inmate on the inmate's arrival at the division in a time-earning category that does not allow the inmate to earn more than 30 days' good conduct time for each 30 days actually served.*

~~[(b) On the direction of the board under Section 498.005, the institutional division shall classify each inmate on the inmate's arrival at the division 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 institutional division 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 the inmate is to be reclassified, except that the division under rules adopted by the director of the institutional division may reclassify an inmate to trusty status before the inmate has served 90 days at the classification immediately lower than trusty status.]~~

SECTION 11.04. Section 498.005, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 498.005. ANNUAL REVIEW OF CLASSIFICATION; RESTORATION OF GOOD TIME; RETROACTIVE AWARD OF GOOD TIME. At least annually, the board shall review the institutional division's rules relating to restoration of good conduct time that has been forfeited, the manner in which inmates are reclassified, and the manner in which additional good conduct time is awarded retroactively to inmates who have been reclassified. The board shall consider in its review whether the inmate overcrowding in the institutional division has decreased and whether it is necessary for purposes of decreasing overcrowding to classify inmates according to Section 498.002[(a)], to restore good conduct time under Section 498.004, or to 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 classify inmates according to Section 498.002(a), it shall order the institutional division to classify inmates according to Section 498.002(b).]~~ 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 institutional division to discontinue those practices.

SECTION 11.05. Subsection (a), Section 8, Article 42.09, Code of Criminal Procedure, is amended to read as follows:

(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;

(2) a copy of any order revoking probation and imposing sentence pursuant to Section 8 of Article 42.12 of this code, including:

(A) 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

(B) a copy of the client supervision plan prepared for the defendant by the adult probation department supervising the defendant, if such a plan was prepared;

(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;

(10) a copy of the *Criminal Justice Data Report prepared under Section 413.018, Government Code*; and

(11) a copy of a *presentence investigation report prepared under Section 9, Article 42.12 of this code*.

SECTION 11.06. Article 42.13, Code of Criminal Procedure, is amended by adding Section 13 to read as follows:

*Sec. 13. PERFORMANCE REWARDS. (a) The board shall develop, adopt, and implement a performance rewards program to reward each county served by a department that successfully diverts offenders from confinement. In developing the program, the board shall consider relevant factors for each county served by a department. The factors shall include but are not limited to:*

*(1) the personal bond utilization rate in the county;*

*(2) the pretrial diversion rate in the county;*

*(3) the deferred adjudication rate in the county;*

*(4) the probation rate in the county;*

*(5) the probation revocation rate in the county, with separate rates calculated for revocations based on technical grounds and revocations based on grounds other than technical;*

*(6) the utilization rate of residential and nonresidential diversion programs in the county;*

*(7) the institutional division commitment rate in the county;*

*(8) the admission per index crime rate in the county; and*

*(9) the frequency with which and extent to which the county does not use all admissions to which the county is entitled under the allocation formula.*

*(b) On January 1 of each year, the division shall make the first of four quarterly payments to a county served by a department, other than a county described by*

*Subsection (d) of this section, on the basis of the performance record of the county during the previous state fiscal year in diverting offenders from confinement, as documented by information requested by the division and provided by the department serving the county. If a county qualifies for a reward under Subsection (a) of this section, the minimum amount that the county is entitled to receive during a state fiscal year is \$50,000. Each department shall provide the information for each county served by the department in a format designed by the division, and each county participating in the performance rewards program shall provide a plan, including a budget schedule, indicating to the division the manner in which the payment is to be used for each of the purposes described by Subsection (c) of this section. The division may reject the plan, accept the plan, or make acceptance of the plan conditional on modification of the plan and monitoring of the plan by the division.*

*(c) A county that receives a payment under this section shall use not less than 25 percent of the payment for substance abuse prevention and treatment programs and may use the remainder of the payment for:*

*(1) any purposes for which state aid may be used under Section 11(b) of this article;*

*(2) implementation of the community justice plan for that county; or*

*(3) any program serving the criminal justice needs in the county, including certified programs for youthful offenders.*

*(d) The director of the institutional division shall notify the director of the community justice assistance division if a county fails to fully cooperate with employees of the institutional division who are evaluating inmates who are candidates for release on parole from the county jail. The director of the community justice assistance division may not make a payment under this section to the county described by this subsection. For the purposes of this subsection, a county fails to fully cooperate with employees of the institutional division if the county does not:*

*(1) refer candidates for release on parole from jail in the manner required under guidelines established by the board;*

*(2) provide for each candidate a certified packet containing all documents the county would otherwise have been required to deliver to the director of the institutional division under Section 8, Article 42.09 of this code, plus three photographs and three fingerprint cards;*

*(3) hold candidates until the candidates are denied parole or released on parole, unless to do so would mean the county failed to use all admissions allocated to the county under Section 499.071, Government Code; or*

*(4) permit the employees access to inmates or inmate records or does not provide the employees with sufficient space to conduct their evaluations.*

*(e) The community justice assistance division annually shall determine for each county whether the county has a successful personal bond utilization rate in the county and a successful pretrial diversion program. The division shall report its findings to the Legislative Criminal Justice Board not later than December 31 of each year.*

SECTION 11.07. Chapter 511, Government Code, is amended by adding Section 511.0121 to read as follows:

*Sec. 511.0121. FAILURE TO COOPERATE IN PAROLE IN ABSENTIA PROGRAM. The Texas Board of Criminal Justice shall notify the commission of the failure of a county to fully cooperate with employees of the institutional division of the Texas Department of Criminal Justice in evaluating inmates for release on parole from the county jail. On such notification, the commission shall find the county in noncompliance for the purpose of this chapter and may invoke a remedy as provided by Section 511.012.*

SECTION 11.08. (a) Subsection (a), Section 6, Article 42.13, Code of Criminal Procedure, is amended to read as follows:

(a) Beginning on September 1, 1991 [1990], the division shall require as a condition to payment of state aid to a department under Section 11 or Section 13 of this article and eligibility for payment of costs under Section 499.124, Government Code, that a community justice plan be submitted for the department. The [If a] community justice council [serves the department, the council] shall submit the plan required by this subsection. [If a community justice council does not serve the department, the district judges managing the department shall submit the plan.] A community justice council may not submit a plan under this section unless the plan is first approved by the district judges who manage the department served by the council. The council [or judges] shall submit a revised plan to the division each year by a date designated by the division.

(b) Subsection (b), Section 3, Article 42.131, Code of Criminal Procedure, and Subsection (c), Section 3, Article 42.131, Code of Criminal Procedure, as amended by Chapter 262, Acts of the 72nd Legislature, Regular Session, 1991, are amended to read as follows:

(b) A [As a prerequisite to establishing a community corrections facility under this section or a county correctional center under Subchapter H, Chapter 351, Local Government Code, a] community justice council must be established by the district judge or judges in each jurisdiction served by a department, unless a board or council exists in the community on September 1, 1991, [the effective date of this section] that performs duties substantially similar to those imposed on a community justice council under this section. The council shall provide continuing policy guidance and direction for the development of criminal justice plans and community corrections facilities and programs. A council should consist of the following persons or their designees:

(1) a sheriff of a county to be served by the department [facility], chosen by the sheriffs of the counties to be served by the department [facility];

(2) a county commissioner or a county judge from a county to be served by the department [facility], chosen by the county commissioners and county judges of the counties to be served by the department [facility];

(3) a city council member of the most populous municipality in a county to be served by the department [facility], chosen by the members of the city councils of cities to be served by the department [facility];

(4) not more than two state legislators elected from a county to be served by the department [facility], chosen by the state legislators elected from the counties to be served by the department [facility];

(5) the presiding judge from a judicial district to be served by the department [facility], chosen by the district judges from the judicial districts to be served by the department [facility];

(6) a judge of a statutory county court exercising criminal jurisdiction in a county to be served by the department [facility], to be chosen by the judges of statutory county courts with criminal jurisdiction in the counties to be served by the department [facility];

(7) a county attorney with criminal jurisdiction from a county to be served by the department [facility], chosen by the county attorneys with criminal jurisdiction from the counties to be served by the department [facility];

(8) a district attorney or criminal district attorney from a judicial district to be served by the department [facility], chosen by the district attorneys or criminal district attorneys from the judicial districts to be served by the department [facility]; and

(9) an elected member of the board of trustees of an independent school district in a county to be served by the department [facility], chosen by the members of the boards of trustees of independent school districts located in counties to be served by the department [facility].

(c) The community justice council shall [should] appoint a community justice task force to provide support staff for the development of a community justice plan. The task force may consist of any number of members, but should include:

(1) the county or regional director of the Texas Department of Human Services with responsibility for the area to be served by the department [facility];

(2) the chief of police of the most populous municipality to be served by the *department* [facility];

(3) the chief juvenile probation officer of the juvenile probation office serving the most populous area to be served by the *department* [facility];

(4) the superintendent of the most populous school district to be served by the *department* [facility];

(5) the supervisor of the Department of Public Safety region closest to the *department* [facility], or the supervisor's designee;

(6) the county or regional director of the Texas Department of Mental Health and Mental Retardation with responsibility for the area to be served by the *department* [facility];

(7) a substance abuse treatment professional appointed by the Council of Governments serving the area to be served by the *department* [facility];

(8) the department chief [~~of the department to be served by the facility~~];

(9) the local or regional representative of the Board of Pardons and Paroles Division with responsibility for the area to be served by the *department* [facility];

(10) the representative of the Texas Employment Commission with responsibility for the area to be served by the *department* [facility];

(11) the representative of the Texas Rehabilitation Commission with responsibility for the area to be served by the *department* [facility];

(12) a licensed attorney who practices in the area to be served by the *department* [facility] and whose practice consists primarily of criminal law;

(13) a court administrator, if one serves the area to be served by the *department* [facility]; [~~and~~]

(14) a representative of a community service organization that provides services to the area to be served by the *department*; *and*

(15) *a representative of an organization in the area to be served by the department that is actively involved in issues relating to defendants' rights, chosen by the county commissioners and county judges of the counties to be served by the department* [facility].

(c) Chapter 413, Government Code, is amended to read as follows:

#### CHAPTER 413. CRIMINAL JUSTICE POLICY COUNCIL [~~AND~~ COORDINATING COUNCILS]

Sec. 413.001. *DEFINITION* [~~DEFINITIONS~~]. In this chapter, "*policy*["

[~~(1) "Coordinating council" means the Criminal Justice Coordinating Council.~~

[~~(2) "Policy" council" means the Criminal Justice Policy Council.~~

[~~(3) "Council" means the Criminal Justice Coordinating Council or the Criminal Justice Policy Council.~~

Sec. 413.002. CRIMINAL JUSTICE POLICY COUNCIL. (a) The Criminal Justice Policy Council is an agency of the state.

(b) The membership of the policy council consists of:

(1) the governor, lieutenant governor, and speaker of the house of representatives;

(2) ~~four~~ [two] members of the senate appointed by the lieutenant governor, *one of whom must be the chairman of the criminal justice committee*;

(3) ~~four~~ [two] members of the house of representatives appointed by the speaker, *one of whom must be the chairman of the criminal jurisprudence committee*; and

(4) ~~six~~ [four] members appointed by the governor, *one of whom must be a district judge, one of whom must be a district attorney or criminal district attorney, one of whom must be a county judge, one of whom must be a county sheriff, and one of whom must be a county commissioner.*

Sec. 413.003. [~~CRIMINAL JUSTICE COORDINATING COUNCIL. (a) The Criminal Justice Coordinating Council is an agency of the state.~~

~~[(b) The coordinating council consists of:~~

- ~~[(1) the director of the Texas Department of Corrections;~~
- ~~[(2) the executive director of the Texas Adult Probation Commission;~~
- ~~[(3) the executive director of the Board of Pardons and Paroles;~~
- ~~[(4) the executive director of the Texas Judicial Council;~~
- ~~[(5) the executive director of the Commission on Jail Standards;~~
- ~~[(6) the director of the Department of Public Safety;~~
- ~~[(7) the executive director of the criminal justice division of the governor's office;~~
- ~~[(8) the executive director of the Texas Youth Commission;~~
- ~~[(9) the executive director of the Texas Juvenile Probation Commission;~~
- ~~[(10) the executive director of the Commission on Law Enforcement Officer Standards and Education; and~~
- ~~[(11) three public members, one each appointed by the governor, lieutenant governor, and speaker of the house of representatives.~~

~~[Sec. 413.004. APPLICATION OF] SUNSET PROVISION [ACT]. [(a) The Criminal Justice Policy Council [policy council] is subject to [the Texas Sunset Act (Chapter 325 Texas Sunset Act). Unless continued in existence as provided by that chapter [Act], the council is abolished September 1, 1997 [1993].~~

~~[(b) The coordinating council is subject to the Texas Sunset Act (Chapter 325). Unless continued in existence as provided by that Act, the council is abolished September 1, 1993.]~~

Sec. 413.004 [413.005]. TENURE OF APPOINTED MEMBER. An appointed member of the policy [a] council serves at the pleasure of the appointing officer.

Sec. 413.005 [413.006]. SERVICE ADDITIONAL DUTY OF OFFICE. Service on the policy [a] council of a public officer or employee is an additional duty of the office or employment.

Sec. 413.006 [413.007]. COMPENSATION AND REIMBURSEMENT. A member of the policy [a] council serves without compensation for service on the council but is entitled to reimbursement for actual and necessary expenses incurred in performing council duties.

Sec. 413.007 [413.008]. [~~ADVISORY FUNCTION OF COORDINATING COUNCIL;~~] APPOINTMENT OF OTHER ADVISORY BODIES. [~~(a) The coordinating council acts in an advisory capacity to the policy council.~~

~~[(b)]~~ The policy council may establish other advisory councils, task forces, or commissions it considers necessary to accomplish the purposes of this chapter.

Sec. 413.008 [413.009]. GENERAL DUTY OF POLICY COUNCIL [COUNCILS]. The policy council [councils] shall develop means to promote a more effective and cohesive state criminal justice system.

Sec. 413.009 [413.010]. DUTIES OF POLICY COUNCIL. To accomplish its duties 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 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 coordinating council];~~

~~[(9)]~~ make computations of daily costs and compare interagency costs on services provided by agencies that are a part of the criminal justice system;

~~(9)~~ ~~[(10)]~~ make population computations for use in planning for the long-range needs of the criminal justice system;

~~(10)~~ ~~[(11)]~~ determine long-range information needs of the criminal justice system and acquire that information; ~~[and]~~

~~(11)~~ ~~[(12)]~~ engage in other activities consistent with the responsibilities of the policy council; *and*

~~(12)~~ *implement the criminal justice data report.*

~~[Sec. 413.011. DUTIES OF COORDINATING COUNCIL. To accomplish its duties the coordinating council shall:~~

~~[(1) recommend to the policy council means to improve the organization and management of the criminal justice system;~~

~~[(2) examine and evaluate information collection systems used by state criminal justice agencies and recommend means to improve the usefulness, comprehensiveness, and accuracy of information collection;~~

~~[(3) develop a statistical model of the criminal justice system that:~~

~~[(A) reflects workload demands on and the performance of state and local agency components of the system; and~~

~~[(B) has the capacity to predict the impact of changes in the system on the separate components;~~

~~[(4) assist the policy council in the performance of its duties;~~

~~[(5) implement those policy recommendations of the policy council that are administrative in nature;~~

~~[(6) coordinate those solutions to criminal justice system problems that require interagency cooperation; and~~

~~[(7) engage in other activities consistent with the responsibilities of the coordinating council.]~~

Sec. 413.010 [413.012]. **PRESIDING OFFICERS.** The governor is the chairman of the policy council. The lieutenant governor is the vice-chairman and presides at meetings in the governor's absence. The speaker of the house of representatives presides at meetings when both the governor and lieutenant governor are absent.

Sec. 413.011 [413.013]. **MEETINGS.** *The policy* ~~[Each]~~ council shall meet at least quarterly and at the call of its chairman.

~~[Sec. 413.014. SUBCOMMITTEES OF COORDINATING COUNCIL. The coordinating council may form subcommittees to accomplish specific tasks.]~~

Sec. 413.012 [413.015]. **CONTRACTUAL AUTHORITY.** (a) The policy council may contract with public or private entities in the performance of its responsibilities.

(b) The policy council may contract with the criminal justice center at Sam Houston State University to provide information important to the work of either council.

Sec. 413.013 [413.016]. **GRANTS AND DONATIONS.** The policy council may accept grants and donations from public and private entities in addition to legislative appropriations.

Sec. 413.014 [413.017]. **EXECUTIVE DIRECTOR; STAFF.** (a) ~~[The policy council may employ an executive director to perform duties necessary to the proper functioning of both councils. The executive director is the chairman of the coordinating council.~~

(b) The executive director is appointed by the governor with the advice and consent of the senate. The executive director may not work for any agency or office of the state other than the policy council and may not perform duties for any other state agency or office that negatively affect the performance of the executive director's duties as executive director of the policy council.

(b) (c) The executive director may employ personnel necessary to administer the responsibilities of the *policy council* [councils].

Sec. 413.015 [413.018]. CRIMINAL JUSTICE PLAN; ANNUAL REPORT. (a) The policy council annually shall submit to the legislature a plan detailing the actions necessary to promote an effective and cohesive criminal justice system.

(b) The policy council shall include in the plan a report of its activities and the recommendations it makes under Section 413.009 [413.010].

Sec. 413.016 [413.019]. STATISTICAL ANALYSIS CENTER. The policy council shall serve as the statistical analysis center for the state and as the liaison for the state to the United States Department of Justice on criminal justice issues of interest to the state and federal government relating to data, information systems, and research.

Sec. 413.017 [413.020]. SPECIAL PROJECTS [PRODUCTS]. (a) Before January 1, 1991, the policy council shall prepare and report to the legislature:

(1) a design for conducting a comprehensive study of sentencing patterns and practices in this state;

(2) an evaluation of formulas for the fair and equitable allocation of prison beds to local jurisdictions;

(3) a study that develops uniform definitions of the terms "recidivism" and "revocation rate"; and

(4) an examination of the reporting requirements imposed by the state on municipal, county, and district clerk offices and justices of the peace offices that relate to criminal justice system processing, with recommendations relating to the consolidation, simplification, or elimination of requirements where appropriate.

(b) The design prepared under Subsection (a)(1) must include:

(1) a statement of the specific objectives of the comprehensive study;

(2) methodology;

(3) schedules for the study;

(4) a description of the resources necessary for the study; and

(5) two pilot sampling programs, capable of testing the design.

(c) *Before January 1, 1993, the policy council shall prepare a study on and report to the legislature about statewide sentencing dynamics. The report must include a detailed profile of felons sentenced to the institutional division and felons placed on probation. The policy council shall design the study to provide the legislature with information necessary to perform a proper revision of the Penal Code and statutes relating to sentencing in criminal cases [This section expires January 1, 1992].*

Sec. 413.018. CRIMINAL JUSTICE DATA REPORT. (a) *Not later than September 1, 1992, the policy council shall prepare for and distribute to each district court in this state with felony jurisdiction a data collection report form.*

(b) *The policy council shall design the data collection report form to collect all information relevant to a sentence in a felony case or to a pretrial diversion or grant of deferred adjudication in a felony case as well as any other information determined necessary by the policy council.*

(c) *The attorney representing the state shall complete the data collection report for each felony conviction in which the defendant is sentenced to the institutional division of the Texas Department of Criminal Justice and shall include a copy of the data collection report in the documents sent to the division under Article 42.09, Code of Criminal Procedure. In any disposition of a felony case that does not include confinement in the institutional division, the attorney representing the state shall*



*send a copy of the report to the community supervision and corrections department serving the court.*

*(d) If a sentence in a criminal case is imposed pursuant to a plea bargain, the attorney representing the state shall include that information in the data collection report.*

(d) The amendment made by Subsection (c) of this section to former Section 413.004(b), Government Code, controls over Section 3.02, H.B. No. 222, Acts of the 72nd Legislature, 1st Called Session, 1991, if H.B. No. 222 becomes law. If H.B. No. 222 becomes law, its provision extending the sunset date for the Criminal Justice Coordinating Council to 1997 has no effect.

SECTION 11.09. (a) Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.012 to read as follows:

*Sec. 22.012. TRAINING RELATED TO DIVERSIONS. (a) Each attorney representing the state in the prosecution of felonies and each district court judge shall, as an official duty, each year complete a course of instruction related to the diversion of offenders from confinement in the institutional division.*

*(b) The supreme court shall adopt rules to provide for the training required by Subsection (a). In adopting the rules, the court shall consult with the Texas Department of Criminal Justice to obtain the department's recommendations for instruction content.*

*(c) The instruction must include information relating to:*

*(1) case law, statutory law, and procedural rules relating to felony diversions; and*

*(2) available community and state resources for diversions.*

(b) The change in law made by this section applies to training for judges and prosecutors to be completed for calendar years beginning on or after January 1, 1992.

SECTION 11.10. Chapter 26, Tax Code, is amended by adding Section 26.044 to read as follows:

*Sec. 26.044. EFFECTIVE TAX RATE TO PAY FOR STATE CRIMINAL JUSTICE MANDATE. (a) The first time that a county adopts a tax rate after September 1, 1991, in which the state criminal justice mandate applies to the county, the effective maintenance and operation rate for the county is increased by the rate calculated according to the following formula:*

*(State Criminal Justice Mandate)*

*(Current Total Value - New Property Value)*

*(b) In the second and subsequent years that a county adopts a tax rate, if the amount spent by the county for the state criminal justice mandate increased over the previous year, the effective maintenance and operation rate for the county is increased by the rate calculated according to the following formula:*

*(This Year's State Criminal Justice Mandate - Previous Year's State Criminal Justice Mandate)*

*(Current Total Value - New Property Value)*

*(c) The county shall include a notice of the increase in the effective maintenance and operation rate provided by this section, including a description and amount of the state criminal justice mandate, in the information published under Section 26.04(e) and Section 26.06(b) of this code.*

*(d) In this section, "state criminal justice mandate" means the amount spent by the county in the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced to the institutional division of the Texas Department of Criminal Justice as certified by the*

county auditor based on information provided by the county sheriff, minus the amount received from state revenue for reimbursement of such costs.

SECTION 11.11. Section 497.054, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 497.054. HOUSING FOR PARTICIPANTS. (a) The pardons and paroles division, as necessary, shall designate facilities in an area in which residents are to be participants in the work program plan for the housing of those residents. The pardons and paroles division may not grant a resident work privileges unless:

(1) suitable housing for the resident exists in the area in which the resident is employed or has an offer of employment; or

(2) the resident is to be placed in a work facility that combines employment facilities and living quarters for the resident [~~and is located within 100 miles of the resident's recorded place of residence~~].

(b) The pardons and paroles division may assume custody of an eligible person who has previously been denied parole or whose initial parole eligibility date is more than *six months* [~~one year~~] but less than two years from the projected date of transfer to a work facility and transfer the person to a work facility. The pardons and paroles division may assume custody of a person whom the pardons and paroles division may transfer under Section 499.003(a) and transfer the person to a work facility.

SECTION 11.12. Subsection (b), Section 497.056, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(b) The board shall adopt rules for the administration of the conditional work program. The rules must include a work program contract that includes an agreement by the resident to:

(1) contribute to the owner, operator, or manager of the work facility, from the funds received by the resident for the resident's participation in on-site industries' training and employment, not more than 80 percent of the funds, to be used or distributed by the owner, operator, or manager of the work facility to pay all or a part of:

(A) costs of supervision;

(B) costs of being quartered in the facility;

(C) restitution to the victim or victims of the resident;

(D) savings to be retained for the resident in a designated account for the resident's benefit and receipt on release; and

(E) support of the resident's dependents, if any;

(2) serve at least *six months* [~~one calendar year~~] in the work facility before requesting parole review under Section 8(b), Article 42.18, Code of Criminal Procedure, and to serve at least *six months* [~~one calendar year~~] regardless of whether the resident becomes eligible for mandatory supervision under Section 8(c), Article 42.18, Code of Criminal Procedure, during that *period* [~~calendar year~~]; and

(3) participate in the employment, education, and rehabilitation programs available at the work facility to the extent that participation is recommended by the professional staff of the facility.

SECTION 11.13. Section 497.058, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) *Except as provided by Subsection (c), a [A] work program resident employed under this subchapter is not subject to workers' compensation laws, and the resident [inmate] and the resident's [inmate's] beneficiaries may not receive compensation under those laws.*

(c) *A private industry may provide workers' compensation benefits to a resident and a resident's beneficiaries as necessary to certify a work program operated by the industry as a work pilot project described in 18 U.S.C. Section 1761.*

SECTION 11.14. Chapter 37, Code of Criminal Procedure, is amended by adding Article 37.15 to read as follows:

*Art. 37.15. TEXAS PUNISHMENT STANDARDS COMMISSION*

*Sec. 1. CREATION. The Texas Punishment Standards Commission is created.*

*Sec. 2. DUTIES. The commission shall study the punishments prescribed for criminal offenses in this state, sentencing practices in criminal courts, costs related to prison construction, and the effect of jail and prison overcrowding and lenient parole laws on sentences actually served by defendants convicted of criminal offenses. After completing the study, the commission shall propose legislation to:*

*(1) revise punishments for criminal offenses;*

*(2) expand adequately prisons, jails, and community corrections facilities to confine those convicted defendants who pose the most significant threat to society, including in expansion plans the use of military facilities abandoned by the federal government; and*

*(3) revise probation and parole laws to ensure that:*

*(A) those defendants convicted of offenses that cause the greatest harm to society or pose the greatest threat of future harm to society serve a significant portion of their sentences in actual confinement;*

*(B) evaluations, based on supervisory need rather than capacity limitations, are made of each defendant released on probation or parole to determine the appropriate level of supervision for the defendant or the desirability of placing the defendant in special probation or parole programs; and*

*(C) good time credited toward parole or early release is earned through participation in education, job training, and substance abuse treatment programs designed to provide the defendant the capability of acquiring gainful employment on release; and*

*(4) expand the probation and parole systems adequately, including, as appropriate, special supervision and treatment programs within those systems, to allow each defendant released on probation or parole to receive supervision or treatment based on correctional needs rather than on capacity limitations.*

*Sec. 3. COMPOSITION. (a) The commission is composed of 25 members, 15 of whom are appointed by the governor, five of whom are members of the senate appointed by the lieutenant governor, and five of whom are members of the house of representatives appointed by the speaker of the house of representatives. In making appointments under this section, the governor shall attempt to ensure participation by minorities on the commission, including females, African Americans, Hispanic Americans, Native Americans, and Asian Americans. Each member serves at the pleasure of the official by whom the member is appointed. The governor shall appoint one member to serve as chairman and one member to serve as vice-chairman. Both the chairman and vice-chairman must be either a member of the senate or the house of representatives.*

*(b) All members of the commission shall be generally experienced in criminal justice matters. In addition, there shall be at least one member of the commission experienced in each of the following categories:*

*(1) as a trial judge hearing criminal cases;*

*(2) as a prosecutor of criminal cases;*

*(3) as a criminal justice defense lawyer;*

*(4) in the administration of a statewide correction system;*

*(5) in the operation of a county jail;*

*(6) as an advocate of crime victims' rights; and*

*(7) as an advocate of defendants' rights.*

*Sec. 4. REIMBURSEMENT. Members of the commission are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their official duties.*

*Sec. 5. STAFF; CONTRACTS. The commission may employ staff as necessary for data collection, analysis, and research and other support services and may contract for those services with agencies of the state or private consultants.*

*Sec. 6. SUBMISSION. The commission shall submit the proposed legislation described by Section 2 of this article to the governor, the Texas Department of Criminal Justice, and the Legislative Criminal Justice Board not later than December 1, 1992.*

*Sec. 7. INITIAL APPOINTMENTS. The governor, lieutenant governor, and speaker of the house of representatives shall make their appointments not later than the 31st day after the effective date of this article.*

*Sec. 8. ABOLITION. The commission is abolished on September 1, 1994, and this article expires on that date.*

SECTION 11.15. Section 6, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

*(c) To facilitate the work of the Board of Pardons and Paroles, the governor shall appoint the chairman and two other members of the Board of Pardons and Paroles who shall serve at the pleasure of the governor as the executive committee to coordinate activities of the board and assure maximum efficiency and fair distribution of the caseload.*

SECTION 11.16. Section 351.043, Local Government Code, is amended by amending Subsection (a) and by adding Subsection (e) to read as follows:

*(a) The sheriff or jailer may receive into the county jail a federal prisoner delivered by a federal law enforcement officer unless the sheriff or jailer determines that receipt of the prisoner may violate a state or federal court order, a statute, or a rule of the Commission on Jail Standards or the Texas Board of Criminal Justice.*

*(e) The Texas Board of Criminal Justice may adopt rules regulating the number of federal prisoners and prisoners from jurisdictions other than Texas in a county jail.*

SECTION 11.17. (a) Except as provided by Subsection (b) of this section, effective September 1, 1994, the Penal Code is repealed.

(b) This section does not apply to Section 12.31, 19.02, or 19.03, Penal Code.

SECTION 11.18. (a) Nothing in this article is intended to prevent any county from filing a suit to enforce this article.

(b) If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

SECTION 11.19. This article takes effect immediately.

## ARTICLE 12

SECTION 12.01. Subchapter A, Chapter 499, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 499.0021 to read as follows:

*Sec. 499.0021. TRANSFER OF REVOKED PROBATIONERS. (a) An inmate is eligible for transfer under this section if the inmate is confined in the institutional division following revocation of probation on grounds other than the commission of a subsequent felony offense.*

*(b) The pardons and paroles division may assume custody of an inmate who is eligible for transfer under this section not earlier than one year before the inmate's presumptive parole date. The inmate becomes a pre-parolee on the date the pardons and paroles division assumes custody, and the pardons and paroles division immediately shall transfer the pre-parolee to a facility under contract with the division,*

*which may be a community residential facility, a community corrections facility listed in Section 6(b), Article 42.13, Code of Criminal Procedure, or a county correctional facility. A pre-parolee transferred under this section is considered to be in the actual physical custody of the pardons and paroles division.*

*(c) A pre-parolee transferred by the pardons and paroles division to a facility under this section is subject to the provisions of Sections 499.002(c), 499.004, and 499.005 in the same manner as if the person were a pre-parolee who had been transferred to a community residential facility under Section 499.002.*

SECTION 12.02. The pardons and paroles division may assume custody of an inmate for the purpose of having the inmate participate in the pre-parole program established under Section 499.0021, Government Code, as added by Section 12.01 of this article, regardless of whether the inmate's probation is revoked before, on, or after the effective date of this article.

SECTION 12.03. This article takes effect October 1, 1991.

ARTICLE 13

SECTION 13.01. Subsections (a), (b), (d), and (e), Section 351.006, Local Government Code, are amended to read as follows:

(a) A county jail must have separate cells or compartments, dormitories, and day rooms of varying dimensions and capacities for inmates to provide adequate separation of different classifications of inmates as required by the facilities classification plan and the rules of the commission ~~[prisoners]~~.

(b) A cell or compartment must be designed to accommodate one to eight prisoners. ~~[However, if practicable, a cell or compartment should not be designed to accommodate two prisoners only.]~~

(d) A county jail must provide sufficient single occupancy cells to house the following classes of inmates in single occupancy cells:

- (1) inmates confined in death row segregation;
- (2) inmates confined in administrative or disciplinary segregation;
- (3) inmates assessed as mentally retarded and whose habilitation plans recommend housing in a single occupancy cell;
- (4) inmates with a diagnosed psychiatric illness being treated on an inpatient or outpatient basis whose individual treatment plans recommend housing in single occupancy cells; and
- (5) inmates whose medical treatment plans recommend housing in a single occupancy cell ~~[enough one person cells to accommodate 30 percent or more of its total designated prisoner capacity]~~.

~~[(e) A county jail may provide dormitory-type space to accommodate not more than 40 percent of its total designated prisoner capacity].~~

SECTION 13.02. This article takes effect October 1, 1991.

ARTICLE 14

SECTION 14.01. Subsection (a), Section 2, Article 42.03, Code of Criminal Procedure, is amended to read as follows:

(a) In all criminal cases the judge of the court in which the defendant was convicted shall give the defendant credit on his sentence or period of confinement served as a condition of probation for the time that the defendant has spent in jail in said cause, from the time of his arrest and confinement until his sentence by the trial court.

SECTION 14.02. Subsections (a), (b), and (d), Section 7, Article 42.03, Code of Criminal Procedure, as added by Chapter 848, Acts of the 71st Legislature, Regular Session, 1989, are amended to read as follows:

(a) If jail time is awarded to a person sentenced for an offense under Section 25.05, Penal Code, or if the person is required to serve a period of confinement as a condition

*of probation*, the judge, at the time of the pronouncement of the sentence or at any time while the person is serving the sentence *or period of confinement*, on the judge's own motion or on the written motion of the defendant, may permit the defendant to serve the sentence *or period of confinement* under house arrest, including electronic monitoring and any other conditions the court chooses to impose, during the person's off-work hours. The judge may require bail of the defendant to ensure the faithful performance of the sentence *or period of confinement*.

(b) The court shall require as a condition to permitting the defendant to serve the jail time assessed *or period of confinement imposed* under house arrest a requirement that the defendant perform community service work specified by the court for a specified number of hours.

(d) The sentencing *and confinement alternatives* [alternative] provided by this section *are* [is] in addition to [~~the alternative provided by Section 5(c) of this article and~~] any other sentencing *and confinement alternatives* [alternative] provided by law.

SECTION 14.03. Section 7A, Article 42.03, Code of Criminal Procedure, as amended by Section 4.05, Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 7A. A court in a county served by a district probation office that has an electronic monitoring program approved by the community justice assistance division of the Texas Department of Criminal Justice may require a defendant to serve all or part of a sentence of confinement in county jail *or period of confinement served as a condition of probation* by submitting to electronic monitoring rather than being confined in the county jail.

SECTION 14.04. Section 8(a), Article 42.03, Code of Criminal Procedure, is amended to read as follows:

(a) A court may require a defendant to serve all or part of a sentence of confinement in county jail *or period of confinement served as a condition of probation* by performing community service rather than by being confined in county jail.

SECTION 14.05. Article 42.032, Code of Criminal Procedure, is amended to read as follows:

#### Art. 42.032. GOOD CONDUCT

Sec. 1. To encourage county jail discipline, a distinction may be made [~~in prisoners' terms~~] to give orderly, industrious, and obedient prisoners the comforts and privileges they deserve. The reward for good conduct may consist of a relaxation of strict county jail rules and extension of social privileges consistent with proper discipline.

Sec. 2. The sheriff in charge of each county jail may grant commutation of time for good conduct, industry, and obedience. A deduction not to exceed one day for each day of the original sentence actually served may be made for the term or terms of sentences *or periods of confinement served as conditions of probation* if a charge of misconduct has not been sustained against the prisoner.

Sec. 3. This article applies whether or not the judgment of conviction is a fine or jail sentence or both *or whether the confinement is a condition of probation*, but the deduction in time may not exceed one-third of the original sentence as to fines and court costs assessed in the judgment of conviction *or one-third of the period of confinement ordered as a condition of probation*.

Sec. 4. A prisoner serving two or more cumulative sentences shall be allowed commutation as if the sentences were one sentence, *and a probationer serving two or more periods of confinement as conditions of probation in more than one case shall be allowed commutation as if the periods were conditions of one grant of probation*.

Sec. 5. Any part or all of the commutation accrued under this article may be forfeited and taken away by the sheriff for a sustained charge of misconduct in violation of any rule known to the prisoner, including escape or attempt to escape, if the sheriff has complied with discipline proceedings as approved by the Commission on Jail Standards.

Sec. 6. Except for credit earned by an inmate under Article 43.10, no other time allowance or credits in addition to the commutation of time under this article may be

deducted from the term or terms of sentences *or periods of confinement served as a condition of probation.*

Sec. 7. The sheriff shall keep a conduct record in card or ledger form and a calendar card on each inmate showing all forfeitures of commutation time and the reasons for the forfeitures.

SECTION 14.06. Subsections (a), (b), and (d), Article 42.033, Code of Criminal Procedure, are amended to read as follows:

(a) Where jail time has been awarded to a person sentenced for a misdemeanor or sentenced to confinement in the county jail for a felony *or when a defendant is serving a period of confinement as a condition of probation*, the trial judge, at the time of the pronouncement of sentence or at any time while the defendant is serving the sentence *or period of confinement*, when in the judge's discretion the ends of justice would best be served, may permit the defendant to serve the defendant's sentence *or period of confinement* during his off-work hours or on weekends. The judge may require bail of the defendant to ensure the faithful performance of the sentence *or period of confinement*. The judge may attach conditions regarding the employment, travel, and other conduct of the defendant during the performance of such a sentence *or period of confinement*.

(b) The court may impose as a condition to permitting a defendant to serve the jail time assessed *or period of confinement* during off-work hours or on weekends an additional requirement that the defendant make any of the following payments to the court, agencies, or persons, or that the defendant execute a letter and direct it to the defendant's employer directing the employer to deduct from the defendant's salary an amount directed by the court, which is to be sent by the employer to the clerk of the court. The money received by the court under this section may be used to pay the following expenses as directed by the court:

- (1) the support of the defendant's dependents, if necessary;
- (2) the defendant's documented personal, business, and travel expenses;
- (3) reimbursement of the general fund of the county for the maintenance of the defendant in jail; and
- (4) installment payments on restitution, fines, and court costs ordered by the court.

(d) The court may permit the defendant to serve the defendant's sentence *or period of confinement* during the defendant's off-work hours or on weekends in order for the defendant to continue employment if the court imposes confinement for failure to pay a fine or court costs, as punishment for criminal nonsupport under Section 25.05, Penal Code, or for contempt of a court order for periodic payments for the support of a child.

SECTION 14.07. Subsections (a) and (b), Article 42.034, Code of Criminal Procedure, are amended to read as follows:

(a) If jail time has been awarded to a person sentenced for a misdemeanor or sentenced to confinement in the county jail for a felony *or when a defendant is serving a period of confinement as a condition of probation*, the trial judge at the time of pronouncement of sentence or at any time while the defendant is serving the sentence *or period of confinement*, when in the judge's discretion the ends of justice would best be served, may permit the defendant to serve an alternate term for the same period of time in the county jail work release program of the county in which the offense occurred if:

- (1) the trier of fact determines that the defendant did not cause the serious bodily injury or death of another as a result of the commission of the offense; and
- (2) the judgment for the offense does not contain an affirmative finding under Section 3g(a)(2), Article 42.12, of this code.

(b) A defendant sentenced under this section *or serving a period of confinement* who would otherwise be sentenced to confinement in jail *or required to serve a period of confinement in jail* may earn good conduct credit in the same manner as provided by Section 1, Chapter 461, Acts of the 54th Legislature, Regular Session, 1955 (Article 5118a, Vernon's Texas Civil Statutes), but only while actually confined.

SECTION 14.08. Subsection (a), Article 42.036, Code of Criminal Procedure, is amended to read as follows:

(a) A court may require a defendant to serve all or part of a sentence of confinement *or period of confinement required as a condition of probation* in county jail by performing community service rather than by being confined in county jail unless the sentence of confinement was imposed by the jury in the case.

SECTION 14.09. Subsection (a), Article 43.10, Code of Criminal Procedure, as amended by Chapter 900, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(a) Where the punishment assessed in a conviction for misdemeanor is confinement in jail for more than one day, or where in such conviction the punishment is assessed only at a pecuniary fine and the party so convicted is unable to pay the fine and costs adjudged against him, *or where the party convicted is required to serve a period of confinement as a condition of probation, the party* ~~those so~~ *convicted or required to serve the period of confinement* shall be required to do manual labor in accordance with the provisions of this Article under the following rules and regulations:

1. Each commissioners court may provide for the erection of a workhouse and the establishment of a county farm in connection therewith for the purpose of utilizing the labor of said parties *so convicted or required to serve a period of confinement*;

2. Such farms and workhouses shall be under the control and management of the sheriff, and the sheriff may adopt such rules and regulations not inconsistent with the rules and regulations of the Texas Commission on Jail Standards and with the laws as the sheriff deems necessary;

3. Such overseers and guards may be employed by the sheriff under the authority of the commissioners court as may be necessary to prevent escapes and to enforce such labor, and they shall be paid out of the county treasury such compensation as the commissioners court may prescribe;

4. They shall be put to labor upon public works, including public works for a political subdivision located in whole or in part in the county;

5. One who from age, disease, or other physical or mental disability is unable to do manual labor shall not be required to work. His inability to do manual labor may be determined by a physician appointed for that purpose by the county judge or the commissioners court, who shall be paid for such service such compensation as said court may allow; and

6. For each day of manual labor, in addition to any other credits allowed by law, a prisoner is entitled to have one day deducted from each sentence *or period of confinement* he is serving. The deduction authorized by this article, when combined with the deduction required by Article 42.10, Code of Criminal Procedure, may not exceed two-thirds ( $\frac{2}{3}$ ) of the sentence *or period of confinement*.

SECTION 14.10. Section 1, Article 42.031, Code of Criminal Procedure, as added by Chapter 2 and amended by Chapter 785, Acts of the 71st Legislature, Regular Session, 1989, is reenacted and amended to read as follows:

Sec. 1. (a) The sheriff of each county may attempt to secure employment for each prisoner sentenced to the county jail work release program under Article 42.034 *of this code or permitted under that article to participate in the program as an alternative to serving a period of confinement as a condition of probation* ~~[Code of Criminal Procedure]~~.

(b) The employer of a prisoner participating in a program under this article shall pay the prisoner's salary to the sheriff. The sheriff shall deposit the salary into a special fund to be given to the prisoner on his release after deducting:

- (1) the cost to the county, as determined by the commissioners court of the county, for the prisoner's incarceration during the pay period;
- (2) support of the prisoner's dependents; and
- (3) restitution to the victims of an offense committed by the prisoner.



(c) At the time of sentencing or at a later date, the court sentencing a prisoner may direct the sheriff not to deduct the cost described under Subdivision (1) of Subsection (b) of this section or to deduct only a specified portion of the cost if the court determines that the full deduction would cause a significant financial hardship to the prisoner's dependents.

(d) If the sheriff does not find employment for a prisoner who would otherwise be sentenced to imprisonment *or confined as a condition of probation* in the *institutional division* [~~Texas Department of Corrections~~], the sheriff shall:

- (1) transfer the prisoner to the sheriff of a county who agrees to accept the prisoner as a participant in the county jail work release program; or
- (2) retain the prisoner in the county jail for employment as soon as possible in a jail work release program.

(e) A sheriff or an employee of a sheriff's department is not liable for damages arising from an act or failure to act by the sheriff or employee in connection with a work program operated under this section if the act or failure to act was performed in an official capacity.

SECTION 14.11. Section 3, Article 42.031, Code of Criminal Procedure, is amended to read as follows:

Sec. 3. (a) The sheriff of each county shall classify each felon serving a sentence in the county jail work release program *or participating in that program as an alternative to serving a period of confinement as a condition of probation* for the purpose of awarding good conduct time credit in the same manner as inmates of the Texas Department of Corrections are classified under *Chapter 498, Government Code* [~~Article 6181-1, Revised Statutes~~], and shall award good conduct time in the same manner as the director of the department does in that article.

(b) If at a hearing requested by a sheriff the court that sentenced the prisoner to participation in a county jail work release program determines that the prisoner is conducting himself in a manner that is dangerous to inmates in the county jail or to society as a whole, the court shall order the prisoner's participation in the program terminated and order the prisoner to the term *or period of confinement* or *the term of imprisonment* that the prisoner would have received had he not entered the program. The prisoner shall receive as credit toward his sentence *or period of confinement* any time served as a participant in the program.

SECTION 14.12. This article takes effect October 1, 1991.

## ARTICLE 15

SECTION 15.01. Article 42.036, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

*(h) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by an inmate pursuant to this article if the act or failure to act:*

- (1) was performed pursuant to court order; and*
- (2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.*

SECTION 15.02. Section 17, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

*(e) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in*

*connection with community service performed by an inmate pursuant to this article if the act or failure to act:*

(1) *was performed pursuant to court order; and*

(2) *was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.*

SECTION 15.03. Section 8, Article 42.03, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

*(f) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by an inmate pursuant to this article if the act or failure to act:*

(1) *was performed pursuant to court order; and*

(2) *was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.*

SECTION 15.04. This article takes effect October 1, 1991.

## ARTICLE 16

SECTION 16.01. Section 9, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

Sec. 9. PRESENTENCE INVESTIGATIONS. (a) *Before the imposition of sentence by the court in a felony case, and except [Except] as provided by Subsection (b) of this section, before [prior to] the imposition of sentence by the court in a misdemeanor [criminal] case the court shall direct a probation officer to report to the court in writing on the circumstances of the offense with which the defendant is charged, the amount of restitution necessary to adequately compensate a victim of the offense, the criminal and social history of the defendant, and any other information relating to the defendant or the offense requested by the court. It is not necessary that the report contain a sentencing recommendation, but the report must contain a proposed client supervision plan describing programs and sanctions that the community supervision and corrections [probation] department would provide the defendant if the defendant were granted probation.*

(b) *The court is not required to direct a probation officer to prepare a report in a misdemeanor case if:*

(1) *the defendant requests that a report not be made and the court agrees to the request; or*

(2) *the court finds that there is sufficient information in the record to permit the meaningful exercise of sentencing discretion and the court explains this finding on the record.*

(c) *The court may not inspect a report and the contents of the report may not be disclosed to any person unless:*

(1) *the defendant pleads guilty or nolo contendere or is convicted of the offense; or*

(2) *the defendant, in writing, authorizes the judge to inspect the report.*

(d) *Before sentencing a defendant, the court shall permit the defendant or his counsel to read the presentence report.*

(e) *The court shall allow the defendant or his attorney to comment on the report and, with the approval of the court, introduce testimony or other information alleging a factual inaccuracy in the report.*

(f) *The court shall allow the attorney representing the state access to any information made available to the defendant under this section.*

(g) *The probation officer making a report under this section shall send a copy of the report to an institution to which the defendant is committed.*

(h) On a determination by the court that alcohol or drug abuse may have contributed to the commission of the offense, the court shall direct a probation officer approved by the probation department or the court or a person, program, or other agency approved by the Texas Commission on Alcohol and Drug Abuse, to conduct an evaluation to determine the appropriateness of, and a course of conduct necessary for, alcohol or drug rehabilitation for a defendant and to report that evaluation to the court. The evaluation shall be made:

- (1) after arrest and before conviction, if requested by the defendant;
- (2) after conviction and before sentencing, if the court assesses punishment in the case;
- (3) after sentencing and before the entry of a final judgment, if the jury assesses punishment in the case; or
- (4) after probation is granted, if the evaluation is required as a condition of probation under Section 13 of this article.

(i) A presentence investigation ~~[shall be]~~ conducted on any offender convicted of a felony offense *who* ~~[if it]~~ appears to the court through its own observation or on suggestion of a party *to* ~~[that the defendant may]~~ have a mental impairment. ~~The presentence investigation~~ shall include a psychological evaluation which determines, at a minimum, the defendant's IQ and adaptive behavior score. The results of the evaluation shall be included in the report to the court as required by Subsection (a) of this section.

(j) The court by order may direct that any information and records that are not privileged and that are relevant to the report required by Subsection (a) of this section be released to the officer conducting the presentence investigation under Subsection (i) of this section. The court may also issue a subpoena to obtain that information. The report and all information obtained in connection with the presentence investigation are confidential and may be released only to those persons and under those circumstances authorized under Subsections (d), (e), (f), and (g) of this section and as directed by the court for the effective supervision of the defendant. Medical and psychiatric records obtained by court order shall be kept separate from the defendant's probation file and may be released only by order of the court.

SECTION 16.02. This article takes effect December 1, 1991.

## ARTICLE 17

SECTION 17.01. Subsections (a) and (c), Section 499.022, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, are amended to read as follows:

(a) The purpose of this subchapter is to:

- (1) allow the institutional division the flexibility to house inmates in appropriate settings and determine the proper amount of available housing; and
- (2) provide the executive branch with alternatives to appropriately balance population, consistent with the intent of this subchapter, if the population of the division reaches 95 percent of capacity *or if a backlog of convicted felons exists in the county jails in this state*, as determined by this subchapter.

(c) This subchapter does not:

(1) create a right on the part of an inmate confined in the institutional division to serve the inmate's sentence in a department with a population below 95 percent of capacity, as determined by this subchapter;

(2) grant to an inmate the right to be released or to be considered for release if the inmate population of the division reaches 95 percent of capacity as determined under this subchapter; ~~[or]~~

(3) require a population level below 95 percent of capacity as determined by this subchapter; *or*

(4) *require the board or the Board of Pardons and Paroles to take an action under this subchapter because a backlog of convicted felons exists in the county jails in this state.*

SECTION 17.02. Sections 499.025, 499.026, and 499.027, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, are amended to read as follows:

Sec. 499.025. AWARD OF ADMINISTRATIVE GOOD CONDUCT TIME; ADVANCEMENT OF PAROLE ELIGIBILITY DATE. (a) If the inmate population of the institutional division reaches 94 percent or more of capacity, the director shall immediately notify the *executive director and the board* [governor] in writing of that fact. Until the inmate population is reduced to less than 94 percent of capacity, the director shall make a weekly written report to the *executive director and the board* [governor] stating the extent to which the inmate population is less than, equal to, or in excess of capacity.

(b) If the inmate population of the institutional division reaches 95 percent of capacity, the director shall immediately notify the *executive director, the board,* [governor] and the attorney general in writing of that fact. The attorney general shall certify to the *board* [governor] in writing as to whether the institutional division has reached 95 percent of capacity. If the attorney general certifies that 95 percent of capacity has been reached, the *board* [governor] shall immediately certify that an emergency overcrowding situation exists and [~~shall order the director to credit not more than 90 days of administrative good conduct time to each eligible inmate.~~]

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

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

[~~(2) authorize the pardons and paroles division to advance by identical numbers of days the parole eligibility and review dates of eligible inmates in amounts determined by the governor to be appropriate; or~~]

[~~(3) direct the Board of Pardons and Paroles to proceed in the manner described by Subsection (c) [(d)]. If the Commission on Jail Standards determines that in any county jail in this state there exists an inmate awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom all paperwork and processing required for transfer have been completed for not less than 45 days, the board may direct the Board of Pardons and Paroles to proceed in the manner described by Subsection (c).~~]

(c) [(d)] If the Board of Pardons and Paroles receives a directive from the *board* [governor] under Subsection (b) [(c)(3) and the Board of Pardons and Paroles determines that the emergency overcrowding situation will not be resolved by releases under Article 42.18, Code of Criminal Procedure, and actions taken under Subsections (b) and (e)], the Board of Pardons and Paroles *acting in parole panels*, shall immediately begin to review and consider for early release to intensive supervision parole each eligible inmate who would not at the time of review otherwise be eligible for parole. The *board* [governor] may impose additional criteria for determining which inmates are eligible for release under this subsection. A *parole panel* [~~The Board of Pardons and Paroles~~] may not release an inmate under this subsection if the *panel* [~~Board of Pardons and Paroles~~] determines that the release of the inmate will increase the likelihood of harm to the public, according to objective parole criteria.

Sec. 499.026. RELEASE PROCEDURE. (a) If a *parole panel* [~~the Board of Pardons and Paroles~~] releases an inmate under this subchapter, the *panel* [~~Board of Pardons and Paroles~~] shall impose conditions and limitations as appropriate on the parolee and to the extent practicable shall maximize placements in residential treatment centers. The *parole panel* [~~Board of Pardons and Paroles~~] shall otherwise place a parolee released under this subchapter under intensive supervision parole, whether or not the parolee is of a type who would ordinarily be required to submit to intensive supervision parole.

~~(b) [Not later than the 20th day before the date on which the Board of Pardons and Paroles proposes to release inmates under Section 499.025(d), the Board of Pardons and Paroles shall provide the governor with a list of the names of the inmates scheduled for release and all records or other information relevant to its determination of eligibility for each inmate. Not later than the 20th day after the date on which the governor receives the list, the governor may veto the release of any inmate scheduled for release if the inmate is eligible for release only because of the provisions of Section 499.025(d). The Board of Pardons and Paroles may release an inmate under the provisions of Section 499.025(d) on or after the earlier of the following:~~

~~[(1) the date on which the Board of Pardons and Paroles receives the approval of the governor to release the inmate; or~~

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

~~[(e)] The [governor's] authority of the board to take the actions listed in Section 499.025(b)[(e)] continues until the attorney general, or if appropriate, the Commission on Jail Standards, certifies in writing to the board [governor] that the overcrowding crisis that produced the emergency certification under Section 499.025(b) has been resolved. If the board [governor] receives this certification from the attorney general or the Commission on Jail Standards under this subsection, the board [governor] shall immediately notify the pardons and paroles division [Board of Pardons and Paroles] that the emergency overcrowding situation no longer exists.~~

~~(c) [(d)] An inmate released to parole under this subchapter is subject to terms and conditions imposed on parolees released under Article 42.18, Code of Criminal Procedure.~~

~~(d) [(e)] Not later than the 10th day before the date on which a parole panel [the Board of Pardons and Paroles] proposes to release an inmate under this subchapter, the pardons and paroles division [Board of Pardons and Paroles] shall give notice of the proposed release to the sheriff, the attorney representing the state, and the district judge of the county in which the defendant was convicted. If there was a change of venue in the case, the pardons and paroles division [Board of Pardons and Paroles] shall also notify the sheriff, the attorney representing the state, and the district judge of the county in which the prosecution was originated.~~

Sec. 499.027. ELIGIBLE INMATES. (a) Except as provided by Subsection (b) and subject to the conditions imposed by this subchapter, an inmate is eligible under this subchapter ~~[for credits of administrative good conduct time, to have the inmate's parole eligibility and review date advanced, and]~~ to be considered for release to intensive supervision parole if the inmate is *awaiting transfer to the institutional division following conviction of a felony or probation revocation and for whom paperwork and processing required for transfer have been completed or is* classified as a state approved Trusty I, II, III, or IV, and:

(1) is serving a sentence of 10 years or less;

(2) does not have a history of or has not shown a pattern of violent or assaultive behavior in the institutional division *or county jail* or prior to confinement; and

(3) will not increase the likelihood of harm to the public if released, according to objective parole criteria as determined by a parole panel ~~[the Board of Pardons and Paroles]~~.

(b) An inmate is not eligible under this subchapter ~~[for credits of administrative good conduct time, to have the inmate's parole review and eligibility date advanced, and]~~ to be considered for release to intensive supervision parole if:

(1) the inmate is *awaiting transfer to the institutional division, or serving a sentence, for an offense for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure;*

(2) the inmate is *awaiting transfer to the institutional division, or serving a sentence, for an offense listed in one of the following sections of the Penal Code:*

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

- (C) Section 19.04 (voluntary manslaughter);
- (D) Section 20.03 (kidnapping);
- (E) Section 20.04 (aggravated kidnapping);
- (F) Section 21.11 (indecent with a child);
- (G) Section 22.011 (sexual assault);
- (H) Section 22.021 (aggravated sexual assault);
- (I) Section 22.03 (deadly assault on law enforcement or corrections officer or court participant);
- (J) Section 22.04 (injury to a child or an elderly individual);
- (K) Section 25.02 (incest);
- (L) Section 25.06 (solicitation of a child);
- (M) Section 25.11 (sale or purchase of a child);
- (N) Section 28.02 (arson);
- (O) Section 29.02 (robbery);
- (P) Section 29.03 (aggravated robbery);
- (Q) Section 30.02 (burglary), if the offense is punished as a first-degree felony under that section;
- (R) Section 43.04 (aggravated promotion of prostitution);
- (S) Section 43.05 (compelling prostitution);
- (T) Section 43.24 (sale, distribution, or display of harmful material to minor);
- (U) Section 43.25 (sexual performance by a child);
- (V) Section 46.11 (deadly weapon in penal institution);
- (W) Section 15.01 (criminal attempt), if the offense attempted is listed in this subsection;
- (X) Section 15.02 (criminal conspiracy), if the offense that is the subject of the conspiracy is listed in this subsection; or
- (Y) Section 15.03 (criminal solicitation), if the offense solicited is listed in this subsection; or
- (3) the inmate is *awaiting transfer to the institutional division, or serving a sentence, for an offense listed in one of the following sections of Chapter 481, Health and Safety Code:*
  - (A) Section 481.112(c), 481.113(c), or 481.114(c) (aggravated manufacture or delivery of a controlled substance);
  - (B) Section 481.115(c), 481.116(c), 481.117(c), or 481.118(c) (aggravated possession of a controlled substance);
  - (C) Section 481.120 (delivery of marihuana) if the offense is punished under Subsection (b)(5) of that section;
  - (D) Section 481.120(c) (aggravated delivery of marihuana); or
  - (E) Section 481.121(c) (aggravated possession of marihuana).

*(c) The institutional division shall provide each county with necessary assistance to enable the county to identify inmates confined in the county jail who may be eligible under this subchapter to be considered for release.*

SECTION 17.03. This article takes effect October 1, 1991.

#### ARTICLE 18

SECTION 18.01. Chapter 511, Government Code, is amended by adding Section 511.0101 to read as follows:

*Sec. 511.0101. JAIL POPULATION REPORTS. (a) Each county shall submit to the commission on or before the fifth day of each month a report containing the following information:*

*(1) the number of prisoners confined in the county jail on the first day of the month, classified on the basis of the following categories:*

- (A) total prisoners;*
- (B) pretrial Class C misdemeanor offenders;*
- (C) pretrial Class A and B misdemeanor offenders;*
- (D) convicted misdemeanor offenders;*
- (E) felony offenders whose penalty has been reduced to a misdemeanor;*
- (F) pretrial felony offenders;*
- (G) convicted felony offenders;*
- (H) prisoners detained on bench warrants;*
- (I) prisoners detained for parole violations;*
- (J) prisoners detained for federal officers;*
- (K) prisoners awaiting transfer to the institutional division of the Texas Department of Criminal Justice following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required for transfer have been completed;*
- (L) prisoners detained after having been transferred from another jail and for whom the commission has made a payment under Subchapter F, Chapter 499, Government Code; and*
- (M) other prisoners;*

*(2) the total capacity of the county jail on the first day of the month; and*  
*(3) certification by the reporting official that the information in the report is accurate.*

*(b) The commission shall prescribe a form for the report required by this section.*

SECTION 18.02. Chapter 511, Government Code, is amended by adding Section 511.016 to read as follows:

*Sec. 511.016. AUDITS. (a) Each county auditor shall provide the commission with a copy of the auditor's quarterly audit of the county jail's commissary operations and a copy of the annual financial audit of general operations of the county jail. The county auditor shall provide a copy of an audit not later than the 10th day after completing the audit.*

*(b) At the request of the commissioners court or a sheriff or on the commission's own initiative, the commission shall conduct an audit of staffing matters at a county jail.*

SECTION 18.03. This article takes effect October 1, 1991.

## ARTICLE 19

SECTION 19.01. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.422 to read as follows:

*Sec. 12.422. IMPOSITION OF SUBSTANCE ABUSE FELONY PUNISHMENT. (a) A court may punish an eligible defendant convicted of an offense listed in Subsection (d) of this section that is otherwise punishable as a felony of the first, second, or third degree by imposing on the defendant:*

*(1) a term of confinement and treatment in a substance abuse treatment facility operated by the community justice assistance division of the Texas Department of Criminal Justice for an indeterminate term of not more than one year or less than six months, except that the minimum term for a defendant whose underlying offense is an offense under Article 67011-1, Revised Statutes, is 30 days;*

(2) a term of not less than two years or more than 10 years in the institutional division of the Texas Department of Criminal Justice, to begin not later than the 30th day after the day on which the defendant is released from a substance abuse facility; and

(3) a fine not to exceed \$10,000.

(b) A defendant is an eligible defendant for the purposes of this section if:

(1) a pre-sentence investigation conducted under Section 9, Article 42.12, Code of Criminal Procedure, or any other indication suggests that drug or alcohol abuse significantly contributed to the commission of the offense;

(2) the court determines that there are no other community-based programs or facilities that are suitable for the treatment of the defendant; and

(3) after considering the gravity and circumstances of the offense committed, the court finds that the punishment would best serve the ends of justice.

(c) A conviction of an offense for which punishment is imposed under this section is a final conviction for the purposes of Section 12.42 of this code.

(d) This section applies to all felony offenses other than murder under Section 19.02, Penal Code, or an offense listed under Section 3g(a)(1), Article 42.12, Code of Criminal Procedure, or a sentence the judgment for which contains an affirmative finding under Section 3g(a)(2) of that article.

SECTION 19.02. Section 6, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) If a court imposes punishment under Section 12.422, Penal Code, the jurisdiction of the court continues until the 30th day after the date the defendant is released from a substance abuse facility, for the purpose of allowing the court to place the defendant on probation under this article. A court may place the defendant on probation under this subsection on its own motion or on the motion of any party. If probation is imposed, the period of probation may not exceed the term of years imposed under Section 12.422(a)(2), Penal Code, and the court must impose as a condition of probation that the defendant participate in a drug or alcohol abuse after-care program. If the court does not impose probation on the defendant within the time permitted under this subsection, the punishment under Section 12.422(a)(2), Penal Code, is automatically discharged.

SECTION 19.03. Chapter 493, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 493.009 to read as follows:

Sec. 493.009. **SUBSTANCE ABUSE FELONY PUNISHMENT FACILITIES.** (a) The department, through the community justice assistance division and the pardons and paroles division and with the cooperation of the Texas Commission on Alcohol and Drug Abuse, shall establish a program to confine and treat defendants punished under Section 12.422, Penal Code.

(b) The department and the Texas Commission on Alcohol and Drug Abuse shall jointly develop methods of screening and assessing inmates sentenced under Section 12.422, Penal Code, to determine their need for specific types of treatment for alcohol or drug abuse problems.

(c) The program for persons sentenced under Section 12.422, Penal Code, must consist of treatment programs that may vary in time from six months to 12 months. The department shall also establish and provide treatment programs for persons in categories described by Subsections (g)(1)-(3) who are housed in beds otherwise provided for persons sentenced under Section 12.422, Penal Code.

(d) The program for persons sentenced under Section 12.422, Penal Code, provided under this section must contain highly structured work, education, and treatment schedules, a clearly delineated authority structure, and well-defined goals and guidelines. The department shall establish a graded system of rewards and sanctions for inmates who participate in the program, but a defendant sentenced under Section 12.422, Penal Code, is not entitled to earn awards of time for good conduct. A



qualified professional, at least every 60 days, must perform an evaluation on a defendant, other than a defendant whose underlying offense is an offense under Article 6701l-1, Revised Statutes, that determines the defendant's treatment progress and institutional behavior. The professional must perform the evaluation on a defendant whose underlying offense is an offense under Article 6701l-1, Revised Statutes, at least every 28 days. Not later than three days after the date on which a four-month evaluation is performed, or in the case of a defendant whose underlying offense is an offense under Article 6701l-1, Revised Statutes, three days after the date on which a 28-day evaluation is performed, the qualified professional shall establish a tentative release date for the defendant, notify the sentencing court of that fact, and include with the notice a copy of the four-month or 28-day evaluation, as appropriate. The qualified professional immediately shall notify the court if the professional determines the defendant's conduct requires a revision of the tentative release date.

(e) The department shall contract through the Texas Commission on Alcohol and Drug Abuse with nonprofit organizations to provide qualified professionals to implement the program for persons sentenced under Section 12.422, Penal Code. For purposes of this subsection, a "qualified professional" is a person who:

(1) is a certified alcohol and drug abuse counselor;

(2) is a certified social worker or advanced clinical practitioner and who has at least two years of experience in chemical dependency counseling; or

(3) is a licensed professional counselor, physician, or psychologist and who has at least two years of experience in chemical dependency counseling.

(f) The department shall adopt rules of conduct for inmates participating in the program for persons sentenced under Section 12.422, Penal Code.

(g) The department shall provide 12,000 beds for the purpose of operating the program for persons sentenced under Section 12.422, Penal Code, except that the beds may also be used to house the following categories of persons:

(1) persons transferred under Subchapter A, Chapter 499, Government Code, and Section 8(i), Article 42.18, Code of Criminal Procedure;

(2) persons whose probation or parole has been modified or revoked; and

(3) inmates confined in county jails awaiting transfer to the institutional division.

(h) On and after the date persons are sentenced under Section 12.422, Penal Code, to participate in the program established under this section, the department shall give priority to housing those persons over the categories of persons described by Subsections (g)(1)-(3).

(i) The department shall make quarterly reports to the Legislative Criminal Justice Board that show the ratio of persons in beds reserved under Subsection (g) who have been sentenced under Section 12.422, Penal Code, to persons in those beds who have been sent to the facilities by other methods.

(j) The department shall recover from a program participant the cost to the department of providing treatment, to the extent the participant has insurance that covers the treatment or is otherwise able to pay for the treatment.

(k) It is the intent of the legislature that facilities established under this section be used primarily to house persons sentenced under Section 12.422, Penal Code, except that if treatment beds are empty, this subsection does not prohibit the department from using those empty beds to treat the categories of persons listed in Subsection (g).

(l) The department shall identify inmates confined in county jails who are awaiting transfer to the institutional division and who because of their need for treatment of drug or alcohol problems require transfer to a substance abuse felony punishment facility. The department may order the county to transfer an inmate to such a facility. If the board finds that a county has failed to fully cooperate with the department in evaluating and transferring inmates under this section, the board shall notify the Commission on Jail Standards of that fact. On notice from the board, the commission may reduce or suspend payments under Subchapter F, Chap-

ter 499, or may suspend the certification of the county jail as provided by Section 511.012.

(m) Notwithstanding any other provision of this section, the department is authorized to provide substance abuse felony punishment facilities, not to exceed 500 beds, for newly provided alcohol and drug abuse beds exclusively for persons whose probation or parole has been modified or revoked.

SECTION 19.04. Chapter 493, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 493.010 to read as follows:

*Sec. 493.010. CONTRACTS FOR MISCELLANEOUS HOUSING. The board, for the temporary or permanent housing of inmates, may enter into leases or contract with:*

(1) public or private jails, subject to the restrictions of Subchapter A, Chapter 495; or

(2) operators of alternative housing facilities.

SECTION 19.05. Chapter 493, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, is amended by adding Section 493.011 to read as follows:

*Sec. 493.011. CONSULTANT CONTRACTS FOR PRISON CONSTRUCTION. The board may not contract for construction-related consulting services to the board with an individual or firm if that individual or firm is also under contract with the institutional division to provide construction management services for prison unit construction.*

SECTION 19.06. Chapter 493, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 493.012 to read as follows:

*Sec. 493.012. DISADVANTAGED BUSINESSES. The board and the department each shall make a good faith effort to assist disadvantaged businesses to receive at least 20 percent of the total value of each construction contract awarded for construction, purchase of supplies, materials, services, and equipment that the board and the department expect to make in connection with construction funded by the issuance of bonds. The board and the department each shall annually report to the legislature and the governor on the level of disadvantaged business participation in board and department contracts. The report shall include recommendations for the improvement of disadvantaged business opportunities with the board and the department. In this section, "disadvantaged business" has the meaning assigned by Section 1.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).*

SECTION 19.07. (a) Except as provided by Subsection (b) of this section, this article takes effect October 1, 1991.

(b) Section 19.01 of this article, adding Section 12.422, Penal Code, takes effect October 1, 1992, and applies only to an offense committed on or after that date. For the purposes of this subsection, an offense occurs before October 1, 1992, if any element of the offense occurs before that date.

## ARTICLE 20

SECTION 20.01. Section 499.052, Government Code, as revised by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

*Sec. 499.052. ALTERNATIVE INCARCERATION PROGRAM [FOR PROBATIONERS]. (a) The institutional division shall establish a program to confine persons [probationers] who are required to serve not more than 90 days in the institutional division [department] as a condition of a sentence [probation] imposed under Section 8, Article 42.12, Code of Criminal Procedure. The director of the institutional division may limit the number of persons [probationers] participating in the program.*

(b) A person [probationer] participating in a program under this section is not required to undergo the complete reception and diagnostic process required of other inmates, but

the institutional division may require the *person* [probationer] to undergo those diagnostic processes determined by the division to be necessary.

(c) ~~[A probationer participating in a program under this section must be segregated from the general population of the institutional division, except during the diagnostic process or at other times determined necessary by the division for medical or security reasons.~~

(d) The institutional division shall require a *person* [probationer] participating in a program under this section to participate in strenuous labor, and the division shall conduct programs to educate the *person* [probationer] as to the conditions under which inmates in the division live.

(d) ~~(e)~~ The institutional division shall adopt rules of conduct for *persons* [probationers] participating in the program under this section. If the institutional division determines that a *person* [probationer] is not complying with the rules or is medically or psychologically unsuitable for the program, the division shall ~~[may request the court that placed the probationer in the program to] end the person's [probationer's] participation in the program and request the sentencing court to reassume custody of the person.~~ If the court does not ~~reassume custody [end the probationer's participation in the program]~~ and remove the *person* [probationer] from the institutional division before the 12th day after the date the division ~~notifies [makes] the court [request],~~ the division shall ~~[may] transfer the person [probationer] from the program to any unit within the division for the duration of the person's [probationer's] sentence or until further order of the court, provided the order is entered before the expiration of the 180 days from the date the execution of sentence actually begins. If on the 90th day after a person [probationer] begins participation in the program the court has not suspended the imposition of the person's [probationer's] sentence of confinement, the institutional division shall transfer the person [probationer] from the program to any unit within the division.~~

SECTION 20.02. This article takes effect October 1, 1991.

#### ARTICLE 21

SECTION 21.01. Title 3, Government Code, is amended by adding Chapter 319 to read as follows:

#### CHAPTER 319. JUDICIAL SYSTEM IMPACT NOTES

*Sec. 319.001. SYSTEM OF JUDICIAL SYSTEM IMPACT NOTES.* The Legislative Budget Board shall establish a system of judicial system impact notes identifying the probable costs and effects of each bill or resolution that has an identifiable and measurable effect on the dockets, workloads, efficiency, staff and personnel requirements, operating resources, and currently existing material resources of the Supreme Court of Texas, the Court of Criminal Appeals of Texas, the courts of appeals, the district courts, the statutory county courts, the county courts at law, the county courts, and the justice courts of this state.

*Sec. 319.002. ASSESSMENT OF EFFECTS.* In preparing a judicial system impact note, the Legislative Budget Board shall project cost estimates and any identifiable and measurable effect on the dockets, workloads, efficiency, staff and personnel requirements, operating resources, and currently existing material resources of the state's courts for a five-year period that begins on the effective date of the bill or resolution and shall state whether or not costs and effects will be involved after that period.

*Sec. 319.003. ATTACHMENT TO BILL OR RESOLUTION.* (a) If a judicial system impact note is required on a bill or resolution, it must be attached to the bill or resolution before a committee hearing on the bill or resolution may be conducted.

(b) The judicial system impact note must be printed on the first page of the committee report of the bill or resolution and on the first page of all subsequent printings.

(c) *The judicial system impact note must remain with the bill or resolution throughout the legislative process, including submission to the governor.*

(d) *A judicial system impact note that omits any information required by this chapter must specifically note the omission, state the reason for the omission, and estimate the additional time and effort required to obtain the information.*

*Sec. 319.004. ASSISTANCE TO THE LEGISLATIVE BUDGET BOARD. Every judicial officer of every court named in Section 319.001 and every person employed by such courts shall, at the request of the Legislative Budget Board or an authorized employee or representative of the board, provide any information requested by the board or any authorized employee or representative of the board relevant to the preparation of a judicial system impact note on a pending or proposed bill or resolution as accurately and as quickly as possible after receiving such a request.*

SECTION 21.02. This article takes effect September 1, 1991.

SECTION 21.03. The change in the law made by this article applies only to bills and resolutions filed on or after the effective date of this article.

#### ARTICLE 21A

SECTION 21A.01. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.046 to read as follows:

*Sec. 411.046. HATE CRIME REPORTING. (a) The bureau of identification and records shall establish and maintain a central repository for the collection and analysis of information relating to crimes that are motivated by prejudice, hatred, or advocacy of violence, including, but not limited to, incidents for which statistics are or were kept under Public Law No. 101-275, as that law existed on September 1, 1991. On establishing the repository, the department shall develop a procedure to monitor, record, classify, and analyze information relating to incidents directed against persons and property that are apparently motivated by the factors listed in this subsection.*

*(b) Local law enforcement agencies shall report offenses described by Subsection (a) in the form and manner and at regular intervals as prescribed by rules adopted by the department. The department shall summarize and analyze information received under this subsection and file an annual report with the governor and legislature containing the summary and analysis.*

*(c) The department shall make information, records, and statistics collected under this section available to any local enforcement agency, political subdivision, or state agency to the extent the information is reasonably necessary or useful to the agency or subdivision in carrying out duties imposed by law on the agency or subdivision. This subsection may not be construed to limit access to information, records, or statistics which access is permitted by other law. Dissemination of the names of defendants and victims is subject to all confidentiality requirements otherwise imposed by law.*

SECTION 21A.02. This article takes effect October 1, 1991.

#### ARTICLE 22

SECTION 22.01. (a) Except as provided by Subsection (b) of this section, from the funds appropriated to the Texas Department of Criminal Justice for the biennium ending August 31, 1993, the following amounts may be expended during that biennium only for the following purposes:

- |  |               |
|--|---------------|
| (1) Interagency contract with Texas Commission on Jail Standards for payments to counties pursuant to authority of this Act              | \$113,444,000 |
| (2) Additional pilot program for special needs parolees  | \$ 5,280,000  |
| (3) Interagency contract with Criminal Justice Policy Council to implement criminal justice data report and study on sentencing dynamics | \$ 1,100,000  |

- |   |               |
|---|---------------|
| (4) Interagency contract with Texas Punishment Standards Commission   | \$ 1,000,000  |
| (5) Presentence investigations  | \$ 16,000,000 |
| (6) Performance rewards   | \$ 40,000,000 |
| (7) Interagency contract with Texas Commission on Jail Standards for administration of duties pursuant to this Act                | \$ 690,000    |
| (8) Substance abuse felony punishment operations  | \$ 17,086,000 |
| (9) Interagency contract with Sam Houston State University and the Texas State University System for criminal justice enhancement | \$ 300,000    |

(b) Funds subject to Subsection (a) of this section not expended for the purposes listed in Subsection (a) may be expended for the operations of additional substance abuse felony punishment facilities.

(c) Alcohol, Drug Abuse, and Mental Health Block Grant funds received by the Texas Commission on Alcohol and Drug Abuse in excess of \$60.5 million each year of the biennium ending August 31, 1993, shall be expended by the commission only for the purpose of the operation of treatment programming at the substance abuse felony punishment facilities authorized by this Act under Section 493.009, Government Code.

(d) This section expires on September 1, 1993.

SECTION 22.02. Out of the funds appropriated to the Texas Department of Criminal Justice in line item 10, Operation of Additional Capacity (p. I-74), H.B. No. 1, Acts of the 72nd Legislature, 1st Called Session, 1991, the department shall contract with a private organization or organizations for the operation of 2,000 beds that may be constructed with the proceeds of general obligation bonds issued under S.J.R. No. 4, Acts of the 72nd Legislature, 1st Called Session, 1991, if the organization or organizations can meet or exceed the qualifications and standards listed in Section 495.003, Government Code, and if the organization receives the approval of the board through a contract entered into before construction occurs or bonds are issued.

SECTION 22.03. In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$672,100,000 is appropriated to the Texas Department of Criminal Justice from the proceeds of the issuance of bonds authorized by the approval of the voters of S.J.R. No. 4, 72nd Legislature, 1st Called Session, 1991, for the two-year period beginning on the date the proceeds are available, for the payment of expenses incurred in the construction, acquisition, repair, and remodeling of buildings and facilities, as follows:

- (1) a minimum of 6,750 maximum security beds, in any number of units, with no single unit exceeding 2,250 beds;
- (2) six regional centers;
- (3) one psychiatric center;
- (4) 12,000 drug treatment beds;
- (5) safety improvements;
- (6) waste clean-up;
- (7) electrical distribution projects;
- (8) agriculture facility improvements;
- (9) roof repair and replacement;
- (10) solid waste and wastewater treatment;
- (11) kitchen renovation and expansion;
- (12) employee housing repair;
- (13) wardens' residences; and
- (14) *Ruiz* requirements, institutional division needs and minor construction.

SECTION 22.04. (a) Rider 22 (p. II-81), under the appropriations to the Texas Youth Commission by H.B. No. 1, Acts of the 72nd Legislature, 1st Called Session, 1991, is repealed.

(b) The general revenue fund appropriations to the juvenile probation commission under line item 4 Community Corrections (p. II-82), H.B. No. 1, Acts of the 72nd Legislature, 1st

Called Session, 1991, are reduced by \$2 million for the fiscal year ending August 31, 1993, and that amount is transferred and reappropriated to the Texas Department of Criminal Justice to be used for any of the purposes for which funds are appropriated to the department for the biennium ending August 31, 1993.

SECTION 22.05. Of funds appropriated to the Texas Department of Criminal Justice in H.B. No. 1, Acts of the 72nd Legislature, 1st Called Session, 1991, for Community Corrections, \$2 million shall be used to fund a juvenile boot camp located in Harris County. The executive director of the department shall fund the program when the proper authorities in the Harris County Juvenile Probation Department have notified the executive director of the department that 100 youth have been identified as qualified for this program. The youth identified should have the highest probable degree of risk to become adult offenders. The executive director will assure that adequate auditing of the success of the program is in place such that the Legislature, by January 1, 1993, can assess the success of the program.

SECTION 22.06. CONTINGENT APPROPRIATION. (a) Contingent upon finding of fact by the comptroller at the time of certification of this Act pursuant to Article III, Section 49a of the Texas Constitution, that sufficient funds are available in the General Revenue Fund, there is hereby appropriated the sum of \$39 million from the General Revenue Fund to the Texas Department of Criminal Justice for the fiscal biennium beginning September 1, 1991. Such funds are for the purpose of implementing this Act.

(b) In the event the comptroller is unable to issue a finding of fact on September 1, 1991; that sufficient general revenue funds remain to enact the appropriation hereinabove from the General Revenue Fund, bonds shall be issued in the amount of \$39 million as a replacement funding source for completion of the Capitol Extension. Upon issuance of bonds for the extension, the amount of general revenue funds previously appropriated for the project shall be replaced with the bond proceeds. The bond proceeds are hereby appropriated to the State Preservation Board for the completion of the Capitol Extension. Of the amount of general revenue replaced by the bond proceeds, \$34.9 million is hereby appropriated to the Texas Department of Criminal Justice for the 1992-1993 biennium for the purpose of implementing this Act. The remaining \$4.1 million in general revenue are hereby appropriated to the Texas Public Finance Authority for debt service requirements related to these provisions. The provisions herein are for the purposes of substituting bond proceeds for general revenue financing in accordance with recommendations of the Texas Performance Review issue No. GG 12 and as authorized in S.B. No. 3, Acts of the 72nd Legislature, 1st Called Session, 1991.

SECTION 22.07. Notwithstanding any other provision of any other Act of the legislature, appropriations from the criminal justice planning fund to an agency other than the governor's office may not be considered direct appropriations but shall be considered grants estimated.

SECTION 22.08. This article takes effect immediately.

## ARTICLE 23

SECTION 23.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed by the House on August 23, 1991, by a non-record vote; the House concurred in Senate amendments to H.B. No. 93 on August 25, 1991: Yeas 130, Nays 1; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas; passed by the Senate, with amendments, on August 25, 1991: Yeas 31, Nays 0; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.

**Ch. 10, § 23.01**

**72nd LEGISLATURE—SECOND CALLED SESSION**

Approved August 29, 1991.

Effective Aug. 29, 1991, and as provided by §§ 1.06, 2.05, 3.03, 4.02, 5.05, 6.03, 7.07, 8.03, 9.05, 10.03, 11.19, 12.03, 13.02, 14.12, 15.04, 16.02, 17.03, 18.03, 19.07, 20.02, 21.02, 21A.02, 22.08.