

## **BILL ANALYSIS**

Senate Research Center  
79R1554 MFC-D

C.S.H.B. 129  
By: Berman (Eltife)  
Criminal Justice  
5/13/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

A recent attorney general opinion concluded that the use of county inmate labor at events that are a joint venture between the county and a nonprofit organization is not permitted under current law.

C.S.H.B. 129 amends Article 43.10, Code of Criminal Procedure, to permit use of county inmate labor for maintenance and related services for certain nonprofit organizations and a public cemetery. H.B. 129 incorporates a definition for a nonprofit organization, requires the commissioners court to make a determination that the nonprofit organization provides a public service to the county or political subdivision, and specifies that the labor is for maintenance and related services.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 43.10, Code of Criminal Procedure, to authorize the prisoners to which this article applies to be put to labor upon maintenance projects for a cemetery that the commissioners court uses public funds, county employees, or county equipment to maintain under Section 713.028 (County Care of Cemetery Older than 50 Years), Health and Safety Code. Authorizes the prisoners to also be put to labor providing maintenance and related services to certain nonprofit tax-exempt organizations provided that, at the sheriff's request, the commissioners court determines that the nonprofit organization provides a public service to the county or to a political subdivision located in whole or in part in the county.

SECTION 2. Amends Sections 713.028(a) and (c), Health and Safety Code, as follows:

(a) Makes a conforming change.

(c) Authorizes a county, at the discretion of the commissioners court, to permit the use of public funds, county employees, county inmate labor as provided by Article 43.10, Code of Criminal Procedure, and county equipment to open and close graves in a cemetery described by Subsection (a). Deletes existing text relating to the maintenance of a cemetery in a county with a population of 40,000 or less.

SECTION 3. Provides that the change in law made by this Act applies to a person who is convicted of an offense with respect to which Article 43.10, Code of Criminal Procedure, applies, regardless of whether the conviction occurs before, on, or after the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2005.