

AN ACT

relating to the authority to require a convicted person to perform manual labor for a nonprofit organization or a cemetery maintained by the county.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 43.10, Code of Criminal Procedure, is amended to read as follows:

Art. 43.10. MANUAL LABOR. 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 is sentenced to jail for a felony or is confined in jail after conviction of a felony, the party convicted shall be required to work in the county jail industries program or 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;

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

1 Commission on Jail Standards and with the laws as the sheriff deems
2 necessary;

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

8 4. They shall be put to labor upon public works and
9 maintenance projects, including public works and maintenance
10 projects for a political subdivision located in whole or in part in
11 the county. They may be put to labor upon maintenance projects for
12 a cemetery that the commissioners court uses public funds, county
13 employees, or county equipment to maintain under Section 713.028,
14 Health and Safety Code. They may also be put to labor providing
15 maintenance and related services to a nonprofit organization that
16 qualifies for a tax exemption under Section 501(a), Internal
17 Revenue Code of 1986, as an organization described by Section
18 501(c)(3) of that code, and is organized as a nonprofit corporation
19 under the Texas Non-Profit Corporation Act (Article 1396-1.01 et
20 seq., Vernon's Texas Civil Statutes), provided that, at the
21 sheriff's request, the commissioners court determines that the
22 nonprofit organization provides a public service to the county or
23 to a political subdivision located in whole or in part in the
24 county;

25 5. One who from age, disease, or other physical or mental
26 disability is unable to do manual labor shall not be required to
27 work. His inability to do manual labor may be determined by a

1 physician appointed for that purpose by the county judge or the
2 commissioners court, who shall be paid for such service such
3 compensation as said court may allow; and

4 6. For each day of manual labor, in addition to any other
5 credits allowed by law, a defendant is entitled to have one day
6 deducted from each sentence he is serving. The deduction
7 authorized by this article, when combined with the deduction
8 required by Article 42.10 of this code, may not exceed two-thirds
9 (2/3) of the sentence.

10 SECTION 2. Sections 713.028(a) and (c), Health and Safety
11 Code, are amended to read as follows:

12 (a) For purposes of historical preservation or public
13 health, safety, or welfare, a commissioners court may use public
14 funds, county employees, county inmate labor as provided by Article
15 43.10, Code of Criminal Procedure, and county equipment to maintain
16 a cemetery that has a grave marker more than 50 years old.

17 (c) At the discretion of the commissioners court, a county
18 may permit the use of public funds, county employees, county inmate
19 labor as provided by Article 43.10, Code of Criminal Procedure, and
20 county equipment to open and close graves in a cemetery described by
21 Subsection (a). [~~Maintenance of a cemetery under Subsection (a)~~
22 ~~includes any activity necessary for the continued operation of the~~
23 ~~cemetery, including the opening and closing of graves. This~~
24 ~~subsection applies only to a county with a population of 40,000 or~~
25 ~~less.~~]

26 SECTION 3. The change in law made by Section 1 of this Act
27 applies to a person who is convicted of an offense with respect to

1 which Article 43.10, Code of Criminal Procedure, applies,
2 regardless of whether the conviction occurs before, on, or after
3 the effective date of this Act.

4 SECTION 4. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 129 was passed by the House on March 30, 2005, by the following vote: Yeas 144, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 129 on May 26, 2005, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 129 was passed by the Senate, with amendments, on May 24, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor