

1-1 By: Berman, et al. (Senate Sponsor - Eltife) H.B. No. 129
1-2 (In the Senate - Received from the House March 31, 2005;
1-3 April 5, 2005, read first time and referred to Committee on
1-4 Criminal Justice; May 16, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 16, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 129 By: Seliger

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the authority to require a convicted person to perform
1-11 manual labor for a nonprofit organization or a cemetery maintained
1-12 by the county.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Article 43.10, Code of Criminal Procedure, is
1-15 amended to read as follows:

1-16 Art. 43.10. MANUAL LABOR. Where the punishment assessed in
1-17 a conviction for misdemeanor is confinement in jail for more than
1-18 one day, or where in such conviction the punishment is assessed only
1-19 at a pecuniary fine and the party so convicted is unable to pay the
1-20 fine and costs adjudged against him, or where the party is sentenced
1-21 to jail for a felony or is confined in jail after conviction of a
1-22 felony, the party convicted shall be required to work in the county
1-23 jail industries program or shall be required to do manual labor in
1-24 accordance with the provisions of this article under the following
1-25 rules and regulations:

1-26 1. Each commissioners court may provide for the erection of
1-27 a workhouse and the establishment of a county farm in connection
1-28 therewith for the purpose of utilizing the labor of said parties so
1-29 convicted;

1-30 2. Such farms and workhouses shall be under the control and
1-31 management of the sheriff, and the sheriff may adopt such rules and
1-32 regulations not inconsistent with the rules and regulations of the
1-33 Commission on Jail Standards and with the laws as the sheriff deems
1-34 necessary;

1-35 3. Such overseers and guards may be employed by the sheriff
1-36 under the authority of the commissioners court as may be necessary
1-37 to prevent escapes and to enforce such labor, and they shall be paid
1-38 out of the county treasury such compensation as the commissioners
1-39 court may prescribe;

1-40 4. They shall be put to labor upon public works and
1-41 maintenance projects, including public works and maintenance
1-42 projects for a political subdivision located in whole or in part in
1-43 the county. They may be put to labor upon maintenance projects for
1-44 a cemetery that the commissioners court uses public funds, county
1-45 employees, or county equipment to maintain under Section 713.028,
1-46 Health and Safety Code. They may also be put to labor providing
1-47 maintenance and related services to a nonprofit organization that
1-48 qualifies for a tax exemption under Section 501(a), Internal
1-49 Revenue Code of 1986, as an organization described by Section
1-50 501(c)(3) of that code, and is organized as a nonprofit corporation
1-51 under the Texas Non-Profit Corporation Act (Article 1396-1.01 et
1-52 seq., Vernon's Texas Civil Statutes), provided that, at the
1-53 sheriff's request, the commissioners court determines that the
1-54 nonprofit organization provides a public service to the county or
1-55 to a political subdivision located in whole or in part in the
1-56 county;

1-57 5. One who from age, disease, or other physical or mental
1-58 disability is unable to do manual labor shall not be required to
1-59 work. His inability to do manual labor may be determined by a
1-60 physician appointed for that purpose by the county judge or the
1-61 commissioners court, who shall be paid for such service such
1-62 compensation as said court may allow; and

1-63 6. For each day of manual labor, in addition to any other

2-1 credits allowed by law, a defendant is entitled to have one day
2-2 deducted from each sentence he is serving. The deduction
2-3 authorized by this article, when combined with the deduction
2-4 required by Article 42.10 of this code, may not exceed two-thirds
2-5 (2/3) of the sentence.

2-6 SECTION 2. Sections 713.028(a) and (c), Health and Safety
2-7 Code, are amended to read as follows:

2-8 (a) For purposes of historical preservation or public
2-9 health, safety, or welfare, a commissioners court may use public
2-10 funds, county employees, county inmate labor as provided by Article
2-11 43.10, Code of Criminal Procedure, and county equipment to maintain
2-12 a cemetery that has a grave marker more than 50 years old.

2-13 (c) At the discretion of the commissioners court, a county
2-14 may permit the use of public funds, county employees, county inmate
2-15 labor as provided by Article 43.10, Code of Criminal Procedure, and
2-16 county equipment to open and close graves in a cemetery described by
2-17 Subsection (a). [~~Maintenance of a cemetery under Subsection (a)~~
2-18 ~~includes any activity necessary for the continued operation of the~~
2-19 ~~cemetery, including the opening and closing of graves. This~~
2-20 ~~subsection applies only to a county with a population of 40,000 or~~
2-21 ~~less.]~~

2-22 SECTION 3. The change in law made by Section 1 of this Act
2-23 applies to a person who is convicted of an offense with respect to
2-24 which Article 43.10, Code of Criminal Procedure, applies,
2-25 regardless of whether the conviction occurs before, on, or after
2-26 the effective date of this Act.

2-27 SECTION 4. This Act takes effect immediately if it receives
2-28 a vote of two-thirds of all the members elected to each house, as
2-29 provided by Section 39, Article III, Texas Constitution. If this
2-30 Act does not receive the vote necessary for immediate effect, this
2-31 Act takes effect September 1, 2005.

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