

1-1 By: Whitmire S.B. No. 909
1-2 (In the Senate - Filed March 7, 2007; March 15, 2007, read
1-3 first time and referred to Committee on Government Organization;
1-4 April 10, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 10, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 909 By: Whitmire

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

1-10 relating to the continuation and functions of the Texas Board of
1-11 Criminal Justice, the Texas Department of Criminal Justice, and the
1-12 Correctional Managed Health Care Committee and to the functions of
1-13 the Board of Pardons and Paroles.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Section 15, Article 42.12, Code of Criminal
1-16 Procedure, is amended by adding Subsections (i), (j), and (k) to
1-17 read as follows:

1-18 (i) If a defendant is convicted of a state jail felony and
1-19 the sentence is executed, the judge sentencing the defendant may
1-20 release the defendant to a medically suitable placement if the
1-21 judge determines that the defendant does not constitute a threat to
1-22 public safety and the Texas Correctional Office on Offenders with
1-23 Medical or Mental Impairments:

1-24 (1) in coordination with the Correctional Managed
1-25 Health Care Committee prepares a case summary and medical report
1-26 that identifies the defendant as being elderly, physically
1-27 disabled, mentally ill, terminally ill, or mentally retarded or
1-28 having a condition requiring long-term care; and

1-29 (2) in cooperation with the community supervision and
1-30 corrections department serving the sentencing court, prepares for
1-31 the defendant a medically recommended intensive supervision and
1-32 continuity of care plan that:

1-33 (A) ensures appropriate supervision of the
1-34 defendant by the community supervision and corrections department;
1-35 and

1-36 (B) requires the defendant to remain under the
1-37 care of a physician at and reside in a medically suitable placement.

1-38 (j) The Texas Correctional Office on Offenders with Medical
1-39 or Mental Impairments shall submit to a judge who releases a
1-40 defendant to an appropriate medical care facility under Subsection
1-41 (i) a quarterly status report concerning the defendant's medical
1-42 and treatment status.

1-43 (k) If a defendant released to a medically suitable
1-44 placement under Subsection (i) violates the terms of that release,
1-45 the judge may dispose of the matter as provided by Subsections (e)
1-46 and (f)(1).

1-47 SECTION 2. Chapter 76, Government Code, is amended by
1-48 adding Section 76.019 to read as follows:

1-49 Sec. 76.019. RECOMMENDATIONS CONCERNING TERMINATION OF
1-50 COMMUNITY SUPERVISION. (a) In this section, "routine offender
1-51 assessment" means any regularly scheduled evaluation, assessment,
1-52 or reassessment of a defendant's progress in satisfactorily
1-53 completing the defendant's term of community supervision that is
1-54 conducted by the department supervising the defendant.

1-55 (b) During the first routine offender assessment conducted
1-56 after the date on which a defendant completes one-third of the
1-57 original community supervision period or two years of community
1-58 supervision, whichever is earlier, the department supervising the
1-59 defendant shall:

1-60 (1) determine whether the defendant:

1-61 (A) has satisfactorily fulfilled the conditions
1-62 of community supervision; and

1-63 (B) is an appropriate candidate for termination

2-1 of community supervision under Section 20, Article 42.12, Code of
 2-2 Criminal Procedure; and

2-3 (2) recommend to the court that placed the defendant
 2-4 on community supervision whether the court should reduce the period
 2-5 of community supervision or terminate community supervision and
 2-6 discharge the defendant under Section 20, Article 42.12, Code of
 2-7 Criminal Procedure.

2-8 (c) If the court that placed a defendant on community
 2-9 supervision at any time determines that the defendant is indigent,
 2-10 the department supervising the defendant may not refuse to
 2-11 recommend that the defendant's period of community supervision be
 2-12 reduced or that community supervision be terminated and the
 2-13 defendant be discharged solely on the grounds that the defendant
 2-14 has not paid any fees, fines, court costs, or restitution that the
 2-15 defendant was ordered to pay as a condition of community
 2-16 supervision.

2-17 SECTION 3. The heading to Subtitle C, Title 3, Government
 2-18 Code, is amended to read as follows:

2-19 SUBTITLE C. LEGISLATIVE AGENCIES AND OVERSIGHT COMMITTEES

2-20 SECTION 4. Subtitle C, Title 3, Government Code, is amended
 2-21 by adding Chapter 328 to read as follows:

2-22 CHAPTER 328. CRIMINAL JUSTICE LEGISLATIVE OVERSIGHT COMMITTEE

2-23 Sec. 328.001. DEFINITION. In this chapter, "committee"
 2-24 means the Criminal Justice Legislative Oversight Committee.

2-25 Sec. 328.002. ESTABLISHMENT; COMPOSITION. (a) The
 2-26 Criminal Justice Legislative Oversight Committee is established to
 2-27 provide objective research, analysis, and recommendations to help
 2-28 guide state criminal justice policies.

2-29 (b) The committee is composed of six members as follows:

2-30 (1) the chair of the Senate Committee on Criminal
 2-31 Justice;

2-32 (2) the chair of the House Committee on Corrections;

2-33 (3) two members of the senate appointed by the
 2-34 lieutenant governor; and

2-35 (4) two members of the house of representatives
 2-36 appointed by the speaker of the house of representatives.

2-37 (c) In making appointments under Subsection (b)(3) or (4),
 2-38 the lieutenant governor or the speaker of the house of
 2-39 representatives, as applicable, shall give first consideration to
 2-40 members of the senate or the house of representatives who are
 2-41 members of the Senate Committee on Finance or the House
 2-42 Appropriations Committee.

2-43 (d) An appointed member of the committee serves at the
 2-44 pleasure of the appointing official.

2-45 Sec. 328.003. PRESIDING OFFICER; TERM. (a) The lieutenant
 2-46 governor and the speaker of the house of representatives shall
 2-47 appoint the presiding officer of the committee on an alternating
 2-48 basis.

2-49 (b) The presiding officer of the committee serves a two-year
 2-50 term that expires February 1 of each odd-numbered year.

2-51 Sec. 328.004. POWERS AND DUTIES. (a) The committee shall:

2-52 (1) use statistical analyses and other research
 2-53 methods to conduct an in-depth examination of the criminal justice
 2-54 system in this state that includes:

2-55 (A) an assessment of the cost-effectiveness of
 2-56 the use of state and local funds in the criminal justice system;

2-57 (B) an identification of critical problems in the
 2-58 criminal justice system; and

2-59 (C) a determination of the long-range needs of
 2-60 the criminal justice system;

2-61 (2) recommend to the legislature:

2-62 (A) strategies to solve the problems identified
 2-63 under Subdivision (1)(B); and

2-64 (B) policy priorities to address the long-range
 2-65 needs determined under Subdivision (1)(C); and

2-66 (3) advise and assist the legislature in developing
 2-67 plans, programs, and proposed legislation to improve the
 2-68 effectiveness of the criminal justice system.

2-69 (b) The committee has all other powers and duties provided
 2-70 to a special committee by:

3-1 (1) Subchapter B, Chapter 301;
 3-2 (2) the rules of the senate and the house of
 3-3 representatives; and
 3-4 (3) policies of the senate and house committees on
 3-5 administration.

3-6 Sec. 328.005. MEETINGS. The committee shall meet at the
 3-7 call of the presiding officer.

3-8 Sec. 328.006. STAFF; AUTHORITY TO CONTRACT. The committee
 3-9 may hire staff or may contract with universities or other suitable
 3-10 entities to assist the committee in carrying out the committee's
 3-11 duties. Funding to support the operation of the committee shall be
 3-12 provided from funds appropriated to the Texas Legislative Council.

3-13 Sec. 328.007. REPORT. Not later than January 1 of each
 3-14 odd-numbered year, the committee shall submit to the legislature a
 3-15 report that contains the recommendations described by Section
 3-16 328.004(a)(2).

3-17 SECTION 5. Section 492.012, Government Code, is amended to
 3-18 read as follows:

3-19 Sec. 492.012. SUNSET PROVISION. The Texas Board of
 3-20 Criminal Justice and the Texas Department of Criminal Justice are
 3-21 subject to Chapter 325 (Texas Sunset Act). Unless continued in
 3-22 existence as provided by that chapter, the board and the department
 3-23 are abolished September 1, 2011 [2007].

3-24 SECTION 6. Chapter 492, Government Code, is amended by
 3-25 adding Sections 492.0125, 492.015, and 492.016 to read as follows:

3-26 Sec. 492.0125. COMPLIANCE WITH SUNSET RECOMMENDATIONS.
 3-27 (a) The department shall:

3-28 (1) comply with and implement the management action
 3-29 recommendations regarding the department adopted by the Sunset
 3-30 Advisory Commission on January 10, 2007, as a result of its review
 3-31 of the department; and

3-32 (2) report to the Sunset Advisory Commission not later
 3-33 than November 1, 2008, the information the Sunset Advisory
 3-34 Commission requires regarding the department's implementation of
 3-35 the recommendations under Subdivision (1).

3-36 (b) This section expires June 1, 2009.

3-37 Sec. 492.015. USE OF TECHNOLOGY. The board shall implement
 3-38 a policy requiring the department to use appropriate technological
 3-39 solutions to improve the department's ability to perform its
 3-40 functions. The policy must ensure that the public is able to
 3-41 interact with the department on the Internet.

3-42 Sec. 492.016. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
 3-43 RESOLUTION. (a) The board shall develop and implement a policy to
 3-44 encourage the use of:

3-45 (1) negotiated rulemaking procedures under Chapter
 3-46 2008 for the adoption of department rules; and

3-47 (2) appropriate alternative dispute resolution
 3-48 procedures under Chapter 2009 to assist in the resolution of
 3-49 internal and external disputes under the department's
 3-50 jurisdiction.

3-51 (b) The department's procedures relating to alternative
 3-52 dispute resolution must conform, to the extent possible, to any
 3-53 model guidelines issued by the State Office of Administrative
 3-54 Hearings for the use of alternative dispute resolution by state
 3-55 agencies.

3-56 (c) The board shall designate a trained person to:

3-57 (1) coordinate the implementation of the policy
 3-58 adopted under Subsection (a);

3-59 (2) serve as a resource for any training needed to
 3-60 implement the procedures for negotiated rulemaking or alternative
 3-61 dispute resolution; and

3-62 (3) collect data concerning the effectiveness of those
 3-63 procedures, as implemented by the department.

3-64 SECTION 7. Subchapter B, Chapter 501, Government Code, is
 3-65 amended by adding Sections 501.059 and 501.064 to read as follows:

3-66 Sec. 501.059. SCREENING FOR AND EDUCATION CONCERNING FETAL
 3-67 ALCOHOL EXPOSURE DURING PREGNANCY. (a) The department shall
 3-68 establish a screening program to identify female inmates who are:

3-69 (1) between the ages of 18 and 44;

3-70 (2) sentenced to a term of confinement not to exceed

4-1 two years; and
4-2 (3) at risk for having a pregnancy with
4-3 alcohol-related complications, including giving birth to a child
4-4 with alcohol-related birth defects.

4-5 (b) The screening program established under Subsection (a)
4-6 must:

4-7 (1) evaluate the family planning practices of each
4-8 female inmate described by Subsection (a) in relation to the
4-9 inmate's consumption of alcohol and risk of having a pregnancy with
4-10 alcohol-related complications;

4-11 (2) include an objective screening tool to be used by
4-12 department employees administering the screening program; and

4-13 (3) occur during the diagnostic process or at another
4-14 time determined by the department.

4-15 (c) The department shall provide:

4-16 (1) a brief substance abuse intervention to all female
4-17 inmates identified by the screening program as being at risk for
4-18 having a pregnancy with alcohol-related complications; and

4-19 (2) an educational brochure describing the risks and
4-20 dangers of consuming alcohol during pregnancy to all female
4-21 inmates.

4-22 Sec. 501.064. AVAILABILITY OF CORRECTIONAL HEALTH CARE
4-23 INFORMATION TO INMATES. The department shall ensure that the
4-24 following information is available to any inmate confined in a
4-25 facility operated by or under contract with the department:

4-26 (1) a description of the level, type, and variety of
4-27 health care services available to inmates;

4-28 (2) the formulary used by correctional health care
4-29 personnel in prescribing medication to inmates;

4-30 (3) correctional managed care policies and
4-31 procedures; and

4-32 (4) the process for the filing of inmate grievances
4-33 concerning health care services provided to inmates.

4-34 SECTION 8. Section 501.132, Government Code, is amended to
4-35 read as follows:

4-36 Sec. 501.132. APPLICATION OF SUNSET ACT. The Correctional
4-37 Managed Health Care Committee is subject to review under Chapter
4-38 325 (Texas Sunset Act) regarding the committee's role and
4-39 responsibilities. The committee shall be reviewed during the
4-40 period in which the Texas Department of Criminal Justice is
4-41 reviewed [~~Unless continued in existence as provided by that~~
4-42 ~~chapter, the committee is abolished and this subchapter expires~~
4-43 ~~September 1, 2007].~~

4-44 SECTION 9. Subchapter E, Chapter 501, Government Code, is
4-45 amended by adding Section 501.1325 to read as follows:

4-46 Sec. 501.1325. COMPLIANCE WITH SUNSET RECOMMENDATIONS.

4-47 (a) The committee, The University of Texas Medical Branch at
4-48 Galveston, and the Texas Tech University Health Sciences Center
4-49 shall:

4-50 (1) comply with and implement the management action
4-51 recommendations regarding the committee, The University of Texas
4-52 Medical Branch at Galveston, and the Texas Tech University Health
4-53 Sciences Center adopted by the Sunset Advisory Commission on
4-54 January 10, 2007, as a result of its review of the committee; and

4-55 (2) report to the Sunset Advisory Commission not later
4-56 than November 1, 2008, the information the Sunset Advisory
4-57 Commission requires regarding the committee and the health care
4-58 providers' implementation of the recommendations under Subdivision
4-59 (1).

4-60 (b) This section expires June 1, 2009.

4-61 SECTION 10. Section 501.137, Government Code, is amended to
4-62 read as follows:

4-63 Sec. 501.137. PRESIDING OFFICER. The governor shall
4-64 designate a public [physician] member of the committee who is
4-65 licensed to practice medicine in this state as presiding officer.
4-66 The presiding officer serves in that capacity at the will of the
4-67 governor.

4-68 SECTION 11. Subsection (a), Section 501.148, Government
4-69 Code, is amended to read as follows:

4-70 (a) The committee shall:

- 5-1 (1) develop statewide policies for the delivery of
5-2 correctional health care;
5-3 (2) maintain ~~the~~ contracts for health care services
5-4 in consultation with the department and the health care providers;
5-5 (3) communicate with the department and the
5-6 legislature regarding the financial needs of the correctional
5-7 health care system;
5-8 (4) allocate funding made available through
5-9 legislative appropriations for correctional health care;
5-10 (5) monitor the expenditures of The University of
5-11 Texas Medical Branch at Galveston and the Texas Tech University
5-12 Health Sciences Center to ensure that those expenditures comply
5-13 with applicable statutory and contractual requirements;
5-14 (6) serve as a dispute resolution forum
5-15 ~~[(2) determine a capitation rate reflecting the true cost of~~
5-16 ~~correctional health care, including necessary catastrophic~~
5-17 ~~reserves;~~
5-18 ~~[(3) monitor and develop reports on general quality of~~
5-19 ~~care issues;~~
5-20 ~~[(4) act as an independent third party in the~~
5-21 ~~allocation of money to inmate health care providers, including the~~
5-22 ~~allocation of money between The University of Texas Medical Branch~~
5-23 ~~at Galveston and the Texas Tech University Health Sciences Center;~~
5-24 ~~[(5) act as an independent third party for the purpose~~
5-25 ~~of dispute resolution]~~ in the event of a disagreement relating to
5-26 inmate health care services between:
5-27 (A) the department and the health care providers;
5-28 or
5-29 (B) The University of Texas Medical Branch at
5-30 Galveston and the Texas Tech University Health Sciences Center;
5-31 (7) address problems found through monitoring
5-32 activities by the department and health care providers ~~and~~
5-33 ~~[(6) enforce compliance with contract provisions],~~
5-34 including requiring corrective action if care does not meet
5-35 expectations as determined by those ~~[quality of care]~~ monitoring
5-36 activities;
5-37 (8) identify and address long-term needs of the
5-38 correctional health care system; and
5-39 (9) report to the Texas Board of Criminal Justice at
5-40 the board's regularly scheduled meeting each quarter on the
5-41 committee's policy decisions, the financial status of the
5-42 correctional health care system, and corrective actions taken by or
5-43 required of the department or the health care providers.

5-44 SECTION 12. Section 501.150, Government Code, is amended to
5-45 read as follows:

5-46 Sec. 501.150. QUALITY OF CARE MONITORING BY THE DEPARTMENT
5-47 AND HEALTH CARE PROVIDERS. (a) The committee shall establish a
5-48 procedure for monitoring the quality of care delivered by the
5-49 health care providers. Under the procedure, the department shall
5-50 monitor the quality of care delivered by the health care providers,
5-51 including ~~department's monitoring activities must be limited to~~
5-52 investigating medical grievances, ensuring access to medical care,
5-53 and conducting periodic operational reviews of medical care
5-54 provided at its units.

5-55 (b) The department and the medical care providers shall
5-56 cooperate in monitoring quality of care. The clinical and
5-57 professional resources of the health care providers shall be used
5-58 to the greatest extent feasible for clinical oversight of quality
5-59 of care issues. The department may require the health care
5-60 providers to take corrective action if the care provided does not
5-61 meet expectations as determined by quality of care monitoring.

5-62 (c) The department and the medical care providers shall
5-63 communicate the results of their monitoring activities, including a
5-64 list of and the status of any corrective actions required of the
5-65 health care providers, to the committee and to the Texas Board of
5-66 Criminal Justice.

5-67 SECTION 13. Subsections (a) and (b), Section 501.151,
5-68 Government Code, are amended to read as follows:

5-69 (a) The committee shall maintain a file on each written
5-70 complaint filed with the committee by a member of the general

6-1 public. The file must include:

- 6-2 (1) the name of the person who filed the complaint;
 6-3 (2) the date the complaint is received by the
 6-4 committee;
 6-5 (3) the subject matter of the complaint;
 6-6 (4) the name of each person contacted in relation to
 6-7 the complaint;
 6-8 (5) a summary of the results of the review or
 6-9 investigation of the complaint; and
 6-10 (6) an explanation of the reason the file was closed,
 6-11 if the committee closed the file without taking action other than to
 6-12 investigate the complaint.

6-13 (b) The committee shall make information available
 6-14 describing its procedures for ~~[provide to the person filing the~~
 6-15 ~~complaint and to each person who is a subject of the complaint a~~
 6-16 ~~copy of the committee's policies and procedures relating to]~~
 6-17 complaint investigation and resolution.

6-18 SECTION 14. Subchapter E, Chapter 501, Government Code, is
 6-19 amended by adding Sections 501.153, 501.154, and 501.155 to read as
 6-20 follows:

6-21 Sec. 501.153. ALTERNATIVE DISPUTE RESOLUTION. (a) The
 6-22 committee shall develop and implement a policy to encourage the use
 6-23 of appropriate alternative dispute resolution procedures under
 6-24 Chapter 2009 to assist in the resolution of internal and external
 6-25 disputes under the committee's jurisdiction.

6-26 (b) The committee's procedures relating to alternative
 6-27 dispute resolution must conform, to the extent possible, to any
 6-28 model guidelines issued by the State Office of Administrative
 6-29 Hearings for the use of alternative dispute resolution by state
 6-30 agencies.

6-31 (c) The committee shall designate a trained person to:

6-32 (1) coordinate the implementation of the policy
 6-33 adopted under Subsection (a);

6-34 (2) serve as a resource for any training needed to
 6-35 implement the procedures for alternative dispute resolution; and

6-36 (3) collect data concerning the effectiveness of those
 6-37 procedures, as implemented by the committee.

6-38 Sec. 501.154. USE OF TECHNOLOGY. The committee shall
 6-39 implement a policy requiring the committee to use appropriate
 6-40 technological solutions to improve the committee's ability to
 6-41 perform its functions. The policy must ensure that the public is
 6-42 able to interact with the committee on the Internet.

6-43 Sec. 501.155. AVAILABILITY OF CORRECTIONAL HEALTH CARE
 6-44 INFORMATION TO THE PUBLIC. (a) The committee shall ensure that
 6-45 the following information is available to the public:

6-46 (1) contracts between the department, the committee,
 6-47 and health care providers, and other information concerning the
 6-48 contracts, including a description of the level, type, and variety
 6-49 of health care services available to inmates;

6-50 (2) the formulary used by correctional health care
 6-51 personnel in prescribing medication to inmates;

6-52 (3) correctional managed care policies and
 6-53 procedures;

6-54 (4) quality assurance statistics and data, to the
 6-55 extent permitted by law;

6-56 (5) general information concerning the costs
 6-57 associated with correctional health care, including at a minimum:

6-58 (A) quarterly and monthly financial reports; and

6-59 (B) aggregate cost information for:

6-60 (i) salaries and benefits;

6-61 (ii) equipment and supplies;

6-62 (iii) pharmaceuticals;

6-63 (iv) offsite medical services; and

6-64 (v) any other costs to the correctional
 6-65 health care system;

6-66 (6) aggregate statistical information concerning
 6-67 inmate deaths and the prevalence of disease among inmates;

6-68 (7) the process for the filing of inmate grievances
 6-69 concerning health care services provided to inmates;

6-70 (8) general statistics on the number and types of

7-1 inmate grievances concerning health care services provided to
7-2 inmates filed during the preceding quarter;
7-3 (9) contact information for a member of the public to
7-4 submit an inquiry to or file a complaint with the department or a
7-5 health care provider;
7-6 (10) information concerning the regulation and
7-7 discipline of health care professionals, including contact
7-8 information for the Health Professions Council and a link to the
7-9 council's website;
7-10 (11) unit data regarding health care services,
7-11 including hours of operation, available services, general
7-12 information on health care staffing at the unit, statistics on an
7-13 inmate's ability to access care at the unit in a timely manner, and,
7-14 if the unit is accredited by a national accrediting body, the most
7-15 recent accreditation review date; and
7-16 (12) dates and agendas for quarterly committee
7-17 meetings and the minutes from previous committee meetings.
7-18 (b) The committee shall make the information described by
7-19 Subsection (a) available on the committee's website and, on
7-20 request, in writing. The committee shall cooperate with the
7-21 department and the health care providers to ensure that the
7-22 committee's website:
7-23 (1) is linked to the websites of the department and the
7-24 health care providers;
7-25 (2) is accessible through the State of Texas website;
7-26 and
7-27 (3) can be located through common search engines.
7-28 (c) In determining the specific information to be made
7-29 available under this section, the committee shall cooperate with
7-30 the department to ensure that public disclosure of the information
7-31 would not pose a security threat to any individual or to the
7-32 criminal justice system.
7-33 SECTION 15. Subchapter B, Chapter 507, Government Code, is
7-34 amended by adding Section 507.028 to read as follows:
7-35 Sec. 507.028. SCREENING FOR AND EDUCATION CONCERNING FETAL
7-36 ALCOHOL EXPOSURE DURING PREGNANCY. (a) The department shall
7-37 establish and use a screening program in state jail felony
7-38 facilities that is substantially similar to the program established
7-39 and used by the department under Section 501.059.
7-40 (b) The department shall provide to all female defendants
7-41 confined in state jail felony facilities an educational brochure
7-42 describing the risks and dangers of consuming alcohol during
7-43 pregnancy.
7-44 SECTION 16. Section 508.033, Government Code, is amended by
7-45 amending Subsections (a) through (d) and adding Subsection (f) to
7-46 read as follows:
7-47 (a) A person is not eligible for appointment as a member of
7-48 the board or for employment as a parole commissioner if the person
7-49 or the person's spouse:
7-50 (1) is employed by or participates in the management
7-51 of a business entity or other organization receiving funds from the
7-52 department or the board;
7-53 (2) owns or controls, directly or indirectly, more
7-54 than a 10-percent interest in a business entity or other
7-55 organization:
7-56 (A) regulated by the department; or
7-57 (B) receiving funds from the department or the
7-58 board; or
7-59 (3) uses or receives a substantial amount of tangible
7-60 goods, services, or funds from the department or the board, other
7-61 than compensation or reimbursement authorized by law for board
7-62 membership, attendance, or expenses.
7-63 (b) In determining eligibility under Subsection (a)(3), the
7-64 compensation or reimbursement that a board member's spouse or
7-65 parole commissioner's spouse receives as an employee of the board
7-66 or the department may not be considered. This subsection does not
7-67 affect any restriction on employment or board membership imposed by
7-68 any other law.
7-69 (c) A person may not serve as a parole commissioner, may not
7-70 be a member of the board, and may not be an employee of the division

8-1 or the board employed in a "bona fide executive, administrative, or
 8-2 professional capacity," as that phrase is used for purposes of
 8-3 establishing an exemption to the overtime provisions of the federal
 8-4 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and
 8-5 its subsequent amendments, if:

8-6 (1) the person is an officer, employee, or paid
 8-7 consultant of a Texas trade association in the field of criminal
 8-8 justice; or

8-9 (2) the person's spouse is an officer, manager, or paid
 8-10 consultant of a Texas trade association in the field of criminal
 8-11 justice.

8-12 (d) A person who is required to register as a lobbyist under
 8-13 Chapter 305 because of the person's activities for compensation in
 8-14 or on behalf of a profession related to the operation of the board
 8-15 may not:

8-16 (1) serve as a member of the board or as a parole
 8-17 commissioner; or

8-18 (2) act as the general counsel to the board or
 8-19 division.

8-20 (f) A person who is a current or former employee of the
 8-21 department may not serve as a parole commissioner before the second
 8-22 anniversary of the date the person's employment with the department
 8-23 ceases.

8-24 SECTION 17. Subsection (b), Section 508.036, Government
 8-25 Code, is amended to read as follows:

8-26 (b) The board shall:

8-27 (1) adopt rules relating to the decision-making
 8-28 processes used by the board and parole panels;

8-29 (2) prepare information of public interest describing
 8-30 the functions of the board and make the information available to the
 8-31 public and appropriate state agencies;

8-32 (3) comply with federal and state laws related to
 8-33 program and facility accessibility; ~~and~~

8-34 (4) prepare annually a complete and detailed written
 8-35 report that meets the reporting requirements applicable to
 8-36 financial reporting provided in the General Appropriations Act and
 8-37 accounts for all funds received and disbursed by the board during
 8-38 the preceding fiscal year; and

8-39 (5) develop and implement policies that provide the
 8-40 public with a reasonable opportunity to appear before the board and
 8-41 to speak on any issue under the jurisdiction of the board, with the
 8-42 exception of an individual parole determination or clemency
 8-43 recommendation.

8-44 SECTION 18. Subchapter B, Chapter 508, Government Code, is
 8-45 amended by adding Sections 508.053, 508.054, and 508.055 to read as
 8-46 follows:

8-47 Sec. 508.053. USE OF TECHNOLOGY. The board shall implement
 8-48 a policy requiring the board to use appropriate technological
 8-49 solutions to improve the board's ability to perform its functions.
 8-50 The policy must ensure that the public is able to interact with the
 8-51 board on the Internet.

8-52 Sec. 508.054. RECORDS OF COMPLAINTS. (a) The board shall
 8-53 maintain a system to promptly and efficiently act on complaints
 8-54 filed with the board. The board shall maintain information about
 8-55 parties to the complaint, the subject matter of the complaint, a
 8-56 summary of the results of the review or investigation of the
 8-57 complaint, and its disposition.

8-58 (b) The board shall make information available describing
 8-59 its procedures for complaint investigation and resolution.

8-60 (c) The board shall periodically notify the complaint
 8-61 parties of the status of the complaint until final disposition.

8-62 (d) This section does not apply to a complaint about an
 8-63 individual parole determination or clemency recommendation.

8-64 Sec. 508.055. NEGOTIATED RULEMAKING AND ALTERNATIVE
 8-65 DISPUTE RESOLUTION. (a) The board shall develop and implement a
 8-66 policy to encourage the use of:

8-67 (1) negotiated rulemaking procedures under Chapter
 8-68 2008 for the adoption of board rules; and

8-69 (2) appropriate alternative dispute resolution
 8-70 procedures under Chapter 2009 to assist in the resolution of

9-1 internal disputes under the board's jurisdiction.

9-2 (b) The board's procedures relating to alternative dispute
 9-3 resolution must conform, to the extent possible, to any model
 9-4 guidelines issued by the State Office of Administrative Hearings
 9-5 for the use of alternative dispute resolution by state agencies.

9-6 (c) The board shall designate a trained person to:

9-7 (1) coordinate the implementation of the policy
 9-8 adopted under Subsection (a);

9-9 (2) serve as a resource for any training needed to
 9-10 implement the procedures for negotiated rulemaking or alternative
 9-11 dispute resolution; and

9-12 (3) collect data concerning the effectiveness of those
 9-13 procedures, as implemented by the board.

9-14 SECTION 19. Subdivision (1), Subsection (g), Section
 9-15 508.117, Government Code, is amended to read as follows:

9-16 (1) "Close relative of a deceased victim" means a
 9-17 person who was:

9-18 (A) the spouse of the victim at the time of the
 9-19 victim's death;

9-20 (B) a parent of the deceased victim; ~~or~~

9-21 (C) an adult brother, sister, or child of the
 9-22 deceased victim; or

9-23 (D) the nearest relative of the deceased victim
 9-24 by consanguinity, if the persons described by Paragraphs (A)
 9-25 through (C) are deceased or are incapacitated due to physical or
 9-26 mental illness or infirmity.

9-27 SECTION 20. Section 508.144, Government Code, is amended by
 9-28 amending Subsections (a) and (b) and adding Subsections (d), (e),
 9-29 and (f) to read as follows:

9-30 (a) The board shall:

9-31 (1) develop according to an acceptable research method
 9-32 the parole guidelines that are the basic criteria on which a parole
 9-33 decision is made;

9-34 (2) base the guidelines on the seriousness of the
 9-35 offense and the likelihood of a favorable parole outcome; and

9-36 (3) implement the guidelines; ~~and~~

9-37 ~~[(4) review the guidelines periodically].~~

9-38 (b) If a board member or parole commissioner deviates from
 9-39 the parole guidelines in voting on a parole decision, the member or
 9-40 parole commissioner shall:

9-41 (1) produce a ~~brief~~ written statement describing in
 9-42 detail the specific circumstances regarding the departure from the
 9-43 guidelines; ~~and~~

9-44 (2) place a copy of the statement in the file of the
 9-45 inmate for whom the parole decision was made; and

9-46 (3) provide a copy of the statement to the inmate.

9-47 (d) The board shall meet annually to review and discuss the
 9-48 parole guidelines developed under Subsection (a). The board may
 9-49 consult outside experts to assist with the review. The board must
 9-50 consider:

9-51 (1) how the parole guidelines serve the needs of
 9-52 parole decision-making;

9-53 (2) how well the parole guidelines reflect parole
 9-54 panel decisions; and

9-55 (3) how well parole guidelines predict successful
 9-56 parole outcomes.

9-57 (e) Based on the board's review of the parole guidelines
 9-58 under Subsection (d), the board may:

9-59 (1) update the guidelines by:

9-60 (A) including new risk factors; or

9-61 (B) changing the values of offense severity or
 9-62 risk factor scores; or

9-63 (2) modify the recommended parole approval rates under
 9-64 the guidelines, if parole approval rates differ significantly from
 9-65 the recommended rates.

9-66 (f) The board is not required to hold an open meeting to
 9-67 review the guidelines as required by Subsection (d), but any
 9-68 modifications or updates to the guidelines made by the board under
 9-69 Subsection (e) must occur in an open meeting.

9-70 SECTION 21. Subchapter E, Chapter 508, Government Code, is

10-1 amended by adding Section 508.1445 to read as follows:

10-2 Sec. 508.1445. ANNUAL REPORT ON GUIDELINES REQUIRED.
 10-3 (a) The board annually shall submit a report to the Criminal
 10-4 Justice Legislative Oversight Committee, the lieutenant governor,
 10-5 the speaker of the house of representatives, and the presiding
 10-6 officers of the standing committees in the senate and house of
 10-7 representatives primarily responsible for criminal justice
 10-8 regarding the board's application of the parole guidelines adopted
 10-9 under Section 508.144.

10-10 (b) The report must include:
 10-11 (1) a brief explanation of the parole guidelines,
 10-12 including how the board:

10-13 (A) defines the risk factors and offense severity
 10-14 levels; and

10-15 (B) determines the recommended parole approval
 10-16 rates for each guideline score;

10-17 (2) a comparison of the recommended approval rates
 10-18 under the parole guidelines to the actual approval rates for
 10-19 individual parole panel members, regional offices, and the state as
 10-20 a whole; and

10-21 (3) a description of instances in which the actual
 10-22 parole approval rates do not meet the recommended approval rates
 10-23 under the parole guidelines, an explanation of the variations, and
 10-24 a list of actions that the board has taken or will take to meet the
 10-25 guidelines.

10-26 SECTION 22. Subsection (c), Section 508.155, Government
 10-27 Code, is amended to read as follows:

10-28 (c) The division may allow a releasee to serve the remainder
 10-29 of the releasee's sentence without supervision and without being
 10-30 required to report if a parole supervisor at the regional level has
 10-31 approved the releasee's early release from supervision under
 10-32 Section 508.1555[+.

10-33 ~~[(1) the releasee has been under supervision for at~~
 10-34 ~~least one-half of the time that remained on the releasee's sentence~~
 10-35 ~~when the releasee was released from imprisonment;~~

10-36 ~~[(2) during the period of supervision the releasee's~~
 10-37 ~~parole or release to mandatory supervision has not been revoked;~~
 10-38 ~~and~~

10-39 ~~[(3) the division determines:~~
 10-40 ~~[(A) that the releasee has made a good faith~~
 10-41 ~~effort to comply with any restitution order imposed on the releasee~~
 10-42 ~~by a court; and~~

10-43 ~~[(B) that allowing the releasee to serve the~~
 10-44 ~~remainder of the releasee's sentence without supervision and~~
 10-45 ~~reporting is in the best interest of society].~~

10-46 SECTION 23. Subchapter E, Chapter 508, Government Code, is
 10-47 amended by adding Section 508.1555 to read as follows:

10-48 Sec. 508.1555. PROCEDURE FOR THE EARLY RELEASE FROM
 10-49 SUPERVISION OF CERTAIN RELEASEES. (a) A parole officer annually
 10-50 shall identify the releasees under the parole officer's supervision
 10-51 who are eligible for early release from supervision under Section
 10-52 508.155(c). A releasee is eligible for early release if:

10-53 (1) the releasee has been under supervision for at
 10-54 least one-half of the time that remained on the releasee's sentence
 10-55 when the releasee was released from imprisonment;

10-56 (2) during the preceding two-year period, the releasee
 10-57 has not committed any violation of the rules or conditions of
 10-58 release;

10-59 (3) during the period of supervision the releasee's
 10-60 parole or release to mandatory supervision has not been revoked;
 10-61 and

10-62 (4) the division determines:
 10-63 (A) that the releasee has made a good faith
 10-64 effort to comply with any restitution order imposed on the releasee
 10-65 by a court; and

10-66 (B) that allowing the releasee to serve the
 10-67 remainder of the releasee's sentence without supervision and
 10-68 reporting is in the best interest of society.

10-69 (b) After identifying any releasees who are eligible for
 10-70 early release under Subsection (a), the parole officer shall review

11-1 the eligible releasees, including any releasees the parole officer
 11-2 has previously declined to recommend for early release, to
 11-3 determine if a recommendation for early release from supervision is
 11-4 appropriate. In conducting the review and determining
 11-5 recommendations, the parole officer shall consider whether the
 11-6 releasee:

11-7 (1) has a low risk of recidivism as determined by an
 11-8 assessment developed by the department; and

11-9 (2) has made a good faith effort to comply with the
 11-10 conditions of release.

11-11 (c) A parole officer shall forward to the parole supervisor
 11-12 at the regional level any recommendations for early release the
 11-13 parole officer makes under Subsection (b). If the parole
 11-14 supervisor approves the recommendation, the division shall allow a
 11-15 releasee to serve the remainder of the releasee's sentence without
 11-16 supervision and without being required to report as authorized by
 11-17 Section 508.155.

11-18 SECTION 24. Section 509.011, Government Code, is amended by
 11-19 amending Subsections (a), (e), (f), and (g) and adding Subsection
 11-20 (f-1) to read as follows:

11-21 (a) If the division determines that a department complies
 11-22 with division standards and if the community justice council has
 11-23 submitted a community justice plan under Section 76.003 and the
 11-24 supporting information required by the division and the division
 11-25 determines the plan and supporting information are acceptable, the
 11-26 division shall prepare and submit to the comptroller vouchers for
 11-27 payment to the department in an amount calculated using a funding
 11-28 formula adopted ~~as follows:~~

11-29 ~~[(1) for per capita funding, a per diem amount for each
 11-30 felony defendant directly supervised by the department pursuant to
 11-31 lawful authority;~~

11-32 ~~[(2) for per capita funding, a per diem amount for a
 11-33 period not to exceed 182 days for each defendant supervised by the
 11-34 department pursuant to lawful authority, other than a felony
 11-35 defendant; and~~

11-36 ~~[(3) for formula funding, an annual amount as computed
 11-37 by multiplying a percentage determined by the allocation formula
 11-38 established] under Subsection (f) [times the total amount provided
 11-39 in the General Appropriations Act for payments under this
 11-40 subdivision].~~

11-41 (e) In establishing a funding formula under Subsection (f)
 11-42 ~~[per diem payments authorized by Subsections (a)(1) and (a)(2)],~~
 11-43 the division shall consider the amounts appropriated in the General
 11-44 Appropriations Act for basic supervision as sufficient to provide
 11-45 basic supervision in each year of the fiscal biennium.

11-46 (f) The division annually shall establish a funding
 11-47 ~~[compute for each department for community corrections program]~~
 11-48 formula to determine the [funding a] percentage of the total amount
 11-49 provided in the General Appropriations Act for payments to
 11-50 departments each department is entitled to receive. A formula
 11-51 established under this subsection:

11-52 ~~(1) may assign different [determined by assigning~~
 11-53 ~~equal] weights to factors relating to the characteristics of~~
 11-54 ~~defendants supervised by a department, including:~~

11-55 (A) the number of felony and nonfelony defendants
 11-56 supervised by the department;

11-57 (B) the risk level of defendants supervised by
 11-58 the department;

11-59 (C) the level of supervision provided to
 11-60 defendants supervised by the department;

11-61 (D) the length of time defendants supervised by
 11-62 the department have been under the supervision of the department or
 11-63 another community supervision and corrections department;

11-64 (E) the percentage of the state's population
 11-65 residing in the counties served by the department; and

11-66 (F) the department's percentage of all felony
 11-67 defendants in the state under direct community supervision; and

11-68 (2) may not penalize a department based on declining
 11-69 numbers of defendants supervised by the department if the declining
 11-70 numbers are directly attributable to an increasing number of

12-1 defendants supervised by the department being discharged from
 12-2 community supervision.

12-3 (f-1) The division shall use the most recent information
 12-4 available in making calculations [~~computations~~] under Subsection
 12-5 (f) [~~this subsection~~]. The board by rule may adopt a policy
 12-6 limiting for all departments the percentage of benefit or loss that
 12-7 may be realized as a result of the operation of the funding formula.

12-8 (g) If the Texas Department of Criminal Justice determines
 12-9 that at the end of a biennium a department maintains in reserve an
 12-10 amount greater than six months' basic supervision operating costs
 12-11 for the department, the Texas Department of Criminal Justice in the
 12-12 succeeding biennium may reduce the amount of [~~per capita and~~
 12-13 ~~formula~~] funding provided under Subsection (a) so that in the
 12-14 succeeding biennium the department's reserves do not exceed six
 12-15 months' basic supervision operating costs. The Texas Department of
 12-16 Criminal Justice may adopt policies and standards permitting a
 12-17 department to maintain reserves in an amount greater than otherwise
 12-18 permitted by this subsection as necessary to cover emergency costs
 12-19 or implement new programs with the approval of the Texas Department
 12-20 of Criminal Justice. The Texas Department of Criminal Justice may
 12-21 distribute unallocated [~~per capita or formula~~] funds to provide
 12-22 supplemental funds to individual departments to further the
 12-23 purposes of this chapter.

12-24 SECTION 25. Subsection (a), Section 614.0032, Health and
 12-25 Safety Code, is amended to read as follows:

12-26 (a) The office shall perform duties imposed on the office by
 12-27 Section 508.146, Government Code, and Section 15(i), Article 42.12,
 12-28 Code of Criminal Procedure.

12-29 SECTION 26. (a) The Texas Department of Criminal Justice
 12-30 shall study the operation and maintenance of different types of
 12-31 electronic monitoring equipment. The study conducted under this
 12-32 subsection must examine:

12-33 (1) the relative cost-effectiveness of using various
 12-34 types of electronic monitoring equipment and funding proposals for
 12-35 costs to the department associated with the various types of
 12-36 equipment;

12-37 (2) the relative level of supervision provided by
 12-38 different types of electronic monitoring equipment; and

12-39 (3) the different rehabilitation and treatment
 12-40 options afforded by different types of electronic monitoring
 12-41 equipment.

12-42 (b) Not later than December 1, 2009, the Texas Department of
 12-43 Criminal Justice shall submit a report summarizing the findings of
 12-44 the study conducted under Subsection (a) of this section to the
 12-45 governor, the lieutenant governor, the speaker of the house of
 12-46 representatives, and appropriate standing committees of the
 12-47 legislature.

12-48 SECTION 27. Section 76.019, Government Code, as added by
 12-49 this Act, applies to a defendant who is on community supervision and
 12-50 supervised by a community supervision and corrections department on
 12-51 or after the effective date of this Act, regardless of the date on
 12-52 which the defendant was originally placed on community supervision.

12-53 SECTION 28. (a) The speaker of the house of
 12-54 representatives and the lieutenant governor shall appoint members
 12-55 to the Criminal Justice Legislative Oversight Committee under
 12-56 Chapter 328, Government Code, as added by this Act, not later than
 12-57 January 1, 2008.

12-58 (b) Notwithstanding Section 328.003, Government Code, as
 12-59 added by this Act, the speaker of the house of representatives, not
 12-60 later than January 15, 2008, shall appoint a presiding officer for
 12-61 the Criminal Justice Legislative Oversight Committee. The
 12-62 presiding officer appointed by the speaker of the house of
 12-63 representatives under this section serves a one-year term that
 12-64 begins on February 1, 2008, and ends on February 1, 2009.

12-65 SECTION 29. Not later than March 1, 2008, the Texas
 12-66 Department of Criminal Justice shall establish the screening
 12-67 programs concerning fetal alcohol exposure under Sections 501.059
 12-68 and 507.028, Government Code, as added by this Act. Not later than
 12-69 September 1, 2008, the department shall begin screening all inmates
 12-70 or defendants confined in state jail felony facilities as required

13-1 by those sections.

13-2 SECTION 30. The Texas Department of Criminal Justice shall
13-3 ensure that information is made available to inmates as required by
13-4 Section 501.064, Government Code, as added by this Act, not later
13-5 than March 1, 2008.

13-6 SECTION 31. The Correctional Managed Health Care Committee
13-7 shall ensure that information is made available to the public as
13-8 required by Section 501.155, Government Code, as added by this Act,
13-9 not later than January 1, 2008.

13-10 SECTION 32. Section 508.033, Government Code, as amended by
13-11 this Act, applies only to a person hired by the Board of Pardons and
13-12 Paroles as a parole commissioner on or after the effective date of
13-13 this Act. A person hired as a parole commissioner before the
13-14 effective date of this Act is covered by the law in effect on the
13-15 date the person was hired, and the former law is continued in effect
13-16 for that purpose.

13-17 SECTION 33. Subsection (b), Section 508.144, Government
13-18 Code, as amended by this Act, applies only to a parole decision made
13-19 on or after the effective date of this Act. A parole decision made
13-20 before the effective date of this Act is covered by the law in
13-21 effect on the date the decision was made, and the former law is
13-22 continued in effect for that purpose.

13-23 SECTION 34. Not later than September 1, 2008, the Board of
13-24 Pardons and Paroles shall hold its first annual meeting to review
13-25 the parole guidelines as required by Subsection (d), Section
13-26 508.144, Government Code, as added by this Act.

13-27 SECTION 35. Not later than December 1, 2008, the Board of
13-28 Pardons and Paroles shall submit its first annual report on the
13-29 parole guidelines as required by Section 508.1445, Government Code,
13-30 as added by this Act.

13-31 SECTION 36. Subsection (c), Section 508.155, Government
13-32 Code, as amended by this Act, applies to any person who is a
13-33 releasee on or after the effective date of this Act and whose
13-34 recommendation for release is approved under Section 508.1555,
13-35 Government Code, as added by this Act, regardless of when the person
13-36 was originally released to parole or mandatory supervision.

13-37 SECTION 37. Not later than September 1, 2008, each parole
13-38 officer shall complete the officer's first annual identification of
13-39 releasees under the officer's supervision who are eligible for
13-40 early release from supervision, as required by Section 508.1555,
13-41 Government Code, as added by this Act.

13-42 SECTION 38. (a) Not later than April 1, 2008, the
13-43 community justice assistance division of the Texas Department of
13-44 Criminal Justice shall establish the funding formula described by
13-45 Subsection (f), Section 509.011, Government Code, as amended by
13-46 this Act, that is to be used for the state fiscal year that begins on
13-47 September 1, 2008.

13-48 (b) Subsections (a), (e), (f), and (g), Section 509.011,
13-49 Government Code, as amended by this Act, and Subsection (f-1),
13-50 Section 509.011, Government Code, as added by this Act, apply to
13-51 appropriations made for a fiscal year that begins on or after
13-52 September 1, 2008.

13-53 SECTION 39. This Act takes effect immediately if it
13-54 receives a vote of two-thirds of all the members elected to each
13-55 house, as provided by Section 39, Article III, Texas Constitution.
13-56 If this Act does not receive the vote necessary for immediate
13-57 effect, this Act takes effect September 1, 2007.

13-58 * * * * *