

BILL ANALYSIS

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S.B. 2309
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Criminal Justice (TDCJ) has continually reported issues with labor management cooperation, recruitment, and retention of employees. The goal of S.B. 2309 is to address an ongoing struggle to find and retain appropriate staff for TDCJ.

This bill addresses this issue by requiring the Texas Board of Criminal Justice (TBCJ) to create the Professional Standards and Labor Oversight Committee. The committee is to make recommendations aimed at professional development of correctional officers and supervisory personnel; improving labor-management cooperation, recruitment, and retention policies; and reviewing complaint procedures. Addressing the identified issues should result in an increase in retention of employees within TDCJ.

As proposed, S.B. 2309 amends current law relating to certain personnel policies of TDCJ and to certain related duties of TBCJ.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Board of Criminal Justice in SECTION 3 (Section 493.031, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 492, Government Code, by adding Section 492.017, as follows:

Sec. 492.017. PROFESSIONAL STANDARDS AND LABOR OVERSIGHT COMMITTEE. (a) Requires the Texas Board of Criminal Justice (TBCJ) to create a professional standards and labor oversight committee composed of TBCJ members to review the implementation of and make necessary recommendations for rule and policy changes to:

- (1) career ladders established under Sections 493.007 (Personnel) and 493.030;
- (2) professional development of correctional officers and supervisory personnel;
- (3) labor-management cooperation, recruitment, and retention policies; and
- (4) complaint procedures established under Section 493.016.

(b) Requires TBCJ, in conjunction with the professional standards and labor oversight committee, to submit a report biennially to the legislature that includes the results of the review and the recommendations considered under Subsection (a), and the information contained in the report submitted by the Texas Department of Criminal Justice (TDCJ) to TBCJ under Section 493.029(h).

SECTION 2. Amends Section 493.027(a), Government Code, to require, rather than to authorize, the executive director of TDCJ to meet regularly with representatives of an eligible state employee organization, as certified by the comptroller of public accounts under Section

403.0165 (Payroll Deduction for State Employee Organization), that represents TDCJ employees in disciplinary or grievance matters to identify TDCJ policies or practices that impair the efficient, safe, and effective operation of TDCJ facilities, and issues that could lead to unnecessary conflicts between TDCJ and TDCJ employees and that could undermine retention and recruitment of those employees.

SECTION 3. Amends Chapter 493, Government Code, by adding Sections 493.029-493.031, as follows:

Sec. 493.029. GRIEVANCE PROCEDURE. (a) Defines "employment-related grievance."

(b) Requires TBCJ to establish procedures and practices through which TDCJ will address employment-related grievances. Requires TBCJ to adopt:

(1) a form on which an employee may state an employment-related grievance and request a specific corrective action;

(2) reasonable time limits for an employee to submit an employment-related grievance, and any subsequent appeals, and for management to respond to a grievance or appeal;

(3) a three-step process by which an employee's employment-related grievance is submitted to the lowest appropriate level of management, with a subsequent appeal submitted to a higher level in the chain of command, on completion of which the employee may choose to submit the grievance to binding arbitration with an impartial third party; and

(4) a program to advertise and explain the grievance procedure to all employees.

(c) Prohibits the party, if a party to the employment-related grievance fails to comply with the time limits adopted under Subsection (b)(2), from prevailing in the grievance action.

(d) Authorizes an employee to be represented by a person selected by the employee to participate in the employment-related grievance process on behalf of the employee. Requires that any grievance proceeding in which a TDCJ employee serves as representative be held during the normal business hours of TDCJ, unless the employee and TDCJ agree otherwise. Provides that attending a grievance proceeding as a party to the proceeding or as a representative of a party is part of an employee's regular employment duties.

(e) Authorizes TDCJ and the employee to enter into binding arbitration on the action, subject to the approval of the employee in the employment-related grievance action. Authorizes TDCJ, to facilitate arbitration, to, with the approval of the employee, appoint a governmental officer or employee, or a private individual, to serve as an impartial third party in a binding arbitration; or obtain the services of an impartial third party through an agreement with the Center for Public Policy Dispute Resolution at The University of Texas School of Law; an alternative dispute resolution system created under Chapter 152 (Alternative Dispute Resolution System Established by Counties), Civil Practice and Remedies Code; another governmental body or a federal agency; or an agreement with the State Office of Administrative Hearings.

(f) Provides that the grievance action is confidential, except to the extent that Chapter 552 (Public Information) applies.

(g) Prohibits TDCJ from retaliating against an employee who files an employment-related grievance.

(h) Requires TDCJ to submit annually to TBCJ a report on TDCJ's use of the employment-related grievance process. Requires that the report include the number of grievances filed, a brief description of each grievance filed, and the final disposition of each grievance.

Sec. 493.030. CORRECTIONAL INSTITUTIONS DIVISION PERSONNEL. (a) Requires TBCJ to develop a career ladder program for the correctional institutions division to retain professionally qualified employees. Requires that the program base advancement on the employee's annual performance evaluations developed under Section 493.007, years of experience in the correctional institutions division, and hours of training completed.

(b) Requires TBCJ to promote a correctional officer candidate to the level of Texas Law Enforcement Correctional Officer on completion of the hours of training and the years of experience required by TBCJ.

(c) Requires TBCJ to develop any training programs necessary to give an employee the opportunity for advancement, develop a training program consisting of a combination of annual in-service training and specific supervisory training and testing to be required for promotion to all correctional officer supervisory positions, and allow an employee the opportunity to complete any training programs required for advancement.

Sec. 493.031. MANDATORY LABOR-MANAGEMENT MEETINGS. (a) Requires TBCJ to adopt a policy mandating monthly labor-management meetings between each district supervisor in the correctional institutions division or the district supervisor's designee, and employees of the correctional institutions division selected in a process established by TBCJ by rule or any representatives chosen by the selected employees.

(b) Requires both parties, at a monthly labor-management meeting, to have an opportunity to improve labor-management relations by addressing issues selected by the parties.

(c) Requires a district supervisor to submit, every third month, a report to the director of the correctional institutions division describing the progress of the meetings.

(d) Requires the director of the correctional institutions division to conduct statewide meetings with employee representatives. Requires TBCJ, in consultation with the executive director of TDCJ, to adopt procedures regarding the statewide meetings.

(e) Requires the director of the correctional institutions division to annually provide to the executive director of TDCJ information on the outcome of meetings held under this section for inclusion in the report submitted under Section 493.027(b) (relating to the requirement that the executive director of TDCJ annually submit a report containing certain information to the Criminal Justice Legislative Oversight Committee on the outcome of any management-employee meetings).

SECTION 4. (a) Requires TBCJ, not later than December 1, 2009, to establish a professional standards and labor oversight committee as required by Section 492.017, Government Code, as added by this Act, and not later than April 1, 2010, to adopt the policies, procedures, and practices required by Sections 493.029-493.031, Government Code, as added by this Act.

(b) Provides that the change in law made by Section 493.030(b), Government Code, as added by this Act, applies to a correctional officer candidate who, on or after the effective date of this Act, completes the hours of training and the years of experience required for promotion, as established by TBCJ. Requires TBCJ to automatically promote on the effective date of this Act any correctional officer candidate who, before the effective date of this Act, completed those hours of training and years of experience.

SECTION 5. Effective date: September 1, 2009.